



Ministry
of Justice

Review of the Youth Justice System

An interim report of emerging findings

9 February 2016

Foreword by the Lord Chancellor and Secretary of State for Justice

I was delighted when Charlie Taylor agreed to lead a review of the youth justice system. His experience as an outstanding head teacher of a special school for children with behavioural difficulties makes him uniquely suited to consider how we respond to some of the most vulnerable and challenging children in society. I am extremely pleased today to present the emerging findings of the review.

There must be clear consequences when an individual, whether a child or an adult, breaks the law. But if we are properly to protect our communities, these consequences must present individuals with the support and the opportunities they require to be fully rehabilitated and to contribute positively to society. Education must be at the heart of this approach, and the emerging findings and proposals set out in this interim report seek to do just that.

During the remainder of the review I have asked Charlie Taylor also to examine the way young offenders are dealt with in court, and the sentences available to tackle their offending. The review will therefore complement work I have asked the Lord Chief Justice to support to develop proposals for greater use of problem-solving approaches in our courts. Consideration of courts and sentencing as part of the review will also make sure that proposals for a better youth justice system can be truly transformative.

I am extremely grateful to Charlie Taylor for his work so far, and I know he in turn has benefitted enormously from the wisdom and experience of the many people he has met during the review. I look forward to sharing our findings and proposals for change when the final report is published in July.

A handwritten signature in black ink, appearing to read 'Michael Gove', written in a cursive style.

Michael Gove

Introduction

1. This review of the youth justice system in England and Wales presents an opportunity to build on considerable success. Since the 2006/07 peak in proven youth offending the number of young people convicted or cautioned has fallen by 77% and the number of children entering the youth justice system for the first time is down 81%. As a result, the number of children in custody has declined by 64% and is now at its lowest recorded level. These are startling achievements, and all those who work in the youth justice system deserve enormous credit. There remains, however, a group of children who continue to offend, some of them prolifically, creating victims and generating fear in many communities, so we cannot afford to be complacent.
2. These successes also pose questions. With fewer young people requiring youth offending services, are the current arrangements for dealing with them the right ones? Does today's young offender demand a different response? And, more fundamentally, is the system seeking to achieve the right outcomes? Among the people we have heard from there is a near consensus that the children who remain in the system are those that display the most challenging and ingrained behaviour and have the most complex needs. While the number of young offenders has fallen, the overall reoffending rate has risen, so it is clear that significant challenges remain.
3. In seeking to answer these questions and develop proposals for a more effective youth justice system, our principal aim has been to listen closely to the views of those involved with the system: practitioners, and young people and their families. The review team has spent much of its time visiting youth offending teams and secure establishments throughout England and Wales, as well as in Scotland, Northern Ireland and Spain, talking to frontline staff and to children. In addition we have spent time with the police and magistrates, as well as those delivering wider services to children. We have been struck throughout by the expertise and dedication of so many people who work with some of the most difficult and troubled children in society. We have also sought to learn from experts, to look into the evidence base, and to listen to the views and proposals of a wide range of stakeholders outside Government. We have been particularly impressed by a wide range of third sector organisations that support children both in custody and in the community, and by the highly effective lobbying organisations and charities that raise the profile of youth justice, conduct research and offer advice. We are extremely grateful to all those who have so freely given their time and energy to support the work of the review.
4. The review is an attempt to look at the youth justice system with fresh eyes, but two key principles have informed our approach. The first is that it is right that children who break the law are dealt with differently to adults. Children make mistakes – some minor, some with life-changing implications – and while the youth justice system must rightly seek to repair harm and protect communities, underpinning our approach must be an ambition for children who offend to be helped to overcome their difficulties.
5. The second principle is that education must be central to an effective youth justice system. Falls in youth offending have coincided with increases in school attendance and attainment and reductions in exclusions. Education is important for all children, but for those involved in offending it is vital. We need a resolute focus on giving children in trouble with the law the skills, qualifications and aptitudes to lead successful, law-abiding lives. We must have as high expectations for these children as we do for any others.

6. This report sets out the review's initial findings and emerging thinking in a number of areas. During the early months we have looked in particular at the future of the youth custodial estate. This report outlines a vision for a different approach to detaining young people. This focus is the result of concern about current youth custodial provision – concern which has recently been exacerbated by the allegations of staff misconduct at Medway Secure Training Centre – and an ambition for our approach to youth justice to be underpinned by a commitment to education. The report also contains early thinking about youth offending services based in local authorities, and the opportunities to devolve greater control of the system to local or regional partners. In other areas, such as the initial response of the police and other agencies to crimes committed by children, more thinking is to be done during the second half of the review, alongside fresh consideration of courts and sentencing.

Re-imagining youth custody

The youth custodial estate

7. There are currently around 1,000 children in England and Wales remanded or sentenced to custody by the courts. In 2008/09, the figure was just over 3,000. This significant and rapid decline in the youth custodial population has had a profound effect on the make-up of the secure estate with the Youth Justice Board for England and Wales (YJB) decommissioning places in all three sectors of youth custody. Since 2009 more than 2,000 places in Young Offender Institutions (YOIs) have been decommissioned, including the closure of 12 separate establishments. In addition, Hassockfield Secure Training Centre (STC) in County Durham has closed, and 81 places in Secure Children's Homes (SCHs) have been decommissioned.
8. The result is a smaller youth custodial estate, but one which we have arrived at by accident rather than design. Having fewer youth custodial establishments means that on average children are now accommodated further from home, increasing journey times to and from court and undermining efforts at resettlement. Similarly, managing disruption in the estate and problems associated with gang affiliations becomes more difficult at a time when levels of violence in both YOIs and STCs are increasing.
9. In addition, a smaller youth custodial population made up from the most persistent and troubled young offenders demands enhanced services and skilled staff. The review team has witnessed an impressive level of dedication, determination and courage from staff who work in extremely challenging circumstances to make their institutions safer and more productive places for children. The reality is, however, that many staff working in YOIs and STCs do not have the skills and experience to manage the most vulnerable and challenging young people in their care, nor have they had sufficient training to fulfil these difficult roles. This has been compounded by staff shortages in YOIs which have resulted in children spending too much time in cells and receiving inadequate access to health and rehabilitative services, or being looked after by members of staff who they do not know.
10. In order to reduce reoffending and transform the lives of the children coming into the secure estate, with all the challenges this population presents, fundamental change to the current youth custody system is needed.

Education in custody

11. There are strong links between education and offending. Half of 15-17 year olds entering YOIs have the literacy or numeracy levels expected of a 7-11 year old. Around 40% of young people in under-18 YOIs have not been to school since they were aged 14, and nearly nine out of 10 have been excluded from school at some point. Equally, we know that educational attainment can be associated with reductions in offending. Ensuring children are in full-time education or employment can be one of the most effective ways to prevent youth crime.

12. Recent attempts have been made to increase the focus on education in custody, but progress has been slow. New education contracts in public sector YOIs promise 30 hours of education a week, but on average children in these establishments are receiving only 17 hours. Staff shortages and rising levels of violence have prevented this new regime being delivered, and in some cases children must sacrifice time spent associating with their peers if they are to attend classes. If we have created disincentives for young people to learn in custody, it is clear that what is best for children has at times become secondary to containment, the management of risk and establishing uniform processes. Rather than preparing children for life on the outside, too often these establishments seem to be teaching children how to survive in prison.
13. Teaching methods throughout the secure estate have not kept pace with changes in our schools. The review team was surprised to hear referrals to children's "learning styles" despite clear evidence that such an approach to teaching is neither necessary nor effective. Equally, we have serious concerns about the teaching of reading. Children in custody should be taught to read using phonics, and every teacher working in custody must understand how reading is taught in their establishment if they are to play their part.
14. Expectations of children should not be adjusted because, at times, their behaviour can be very difficult. There is a great temptation to take the easy option and to place children only in the classes or the courses that they enjoy most. There is lots of positive vocational training happening in custody, but there needs to be a sufficient focus on the building blocks of English and maths as well. There are few jobs now that do not require good levels of literacy and numeracy. However they present to custody, children must not leave still unable to read.
15. Children who are incarcerated must receive the highest quality education from outstanding professionals to repair the damage caused by a lack of engagement and patchy attendance. Perhaps our most worrying finding is that the culture of aspiration and discipline which is evident in the best alternative provision schools – whose pupils share many of the characteristics of children in custody – has rarely been encountered in youth custody. Even in those establishments where the quality of education is better, there is still a clear gulf between this provision and the best to be found in the community.
16. In seeking to improve this situation we must recognise that there is a limit to how successfully a productive culture of learning can be instilled in a prison environment governed by the attendant rules and procedures, and established principally as a place of detention. Leaders of youth custodial establishments have little freedom to innovate or effect changes to their regimes, to commission the services they require, or even to recruit and train their own staff. In addition, different rules, inspection frameworks and levels of resource constrain the sectors of youth custody.
17. If we are to re-imagine a radically different youth custody, we must look to successful alternative provision schools to establish a new approach. Alternative provision describes schools for children who are unable to thrive in mainstream education, and include pupil referral units, special schools and other institutions run by academy trusts or third sector organisations, many of which specialise in supporting children with behavioural difficulties. In recent years a number of alternative provision free schools have opened in England funded by the Department for Education and local authorities, and have in many cases proved highly effective in working with some of the most

challenging children who have been excluded from mainstream schools. These include Everton in the Community and Derby Pride, both connected to local football clubs, Stone Soup Learns run by a third sector organisation in Nottingham, and EBN academy in Birmingham set up by a group of mainstream schools. The best alternative provision schools combine rigorous teaching with the therapeutic approach needed to ensure children are able to engage fully in learning. It is this expertise that we need to draw into youth custody.

Secure alternative provision schools

18. In order that education is truly placed at the heart of youth custody, we must reconceive youth prisons as schools. The review's ambition is for smaller custodial establishments which are created as secure schools, set up in a similar way to alternative provision free schools in England, and located in the regions that they serve. As schools, such establishments would be inspected under the education framework and held to the same standards as other alternative provision schools, while ensuring proper scrutiny of the safeguarding, security and rehabilitation services. Rather than seeking to import education into youth prisons, we should create schools for young offenders in which we overlay the necessary security arrangements.
19. Importantly, head teachers in these secure schools would have the autonomy and flexibility to commission services such as mental health support and speech therapy, recruit and train their own staff, and create a culture which would raise attainment and improve behaviour and rehabilitation in a productive and therapeutic environment. These schools would also work closely with parents and have greater ties to education and other services in the community, perhaps as part of a multi-academy trust, aiding more effective resettlement and continued access to education, training or work after release. These schools would give support to children to reintegrate successfully into society including, where appropriate and safe, giving increased opportunities to attend education and training back in their communities.
20. We are discussing with both the Department for Education and the Welsh Government the process by which such secure schools could be created. There is further thinking to be done about meshing the duties and safeguards which pertain to custody with those which apply to schools, and putting in place appropriate oversight arrangements which enable any concerns to be robustly addressed. Equally, moving to an estate which comprises a larger number of small, education-led establishments presents financial and operational challenges, and we are exploring a range of options to achieve this vision. In the short to medium term places in these secure schools would likely be commissioned by the UK Government, but in the longer term we will explore opportunities to devolve the commissioning responsibility and custodial budget to local areas or regional bodies (see paragraphs 29-33 below). Further details and plans will be set out in the review's final report in July.
21. Over time the review would expect these secure schools to replace most existing youth custodial provision, though we anticipate there will continue to be a need for more specialist provision for the youngest and most vulnerable children detained by the courts.

Youth offending services in the community

22. There is no doubt that a key strength of the youth justice system has been the delivery of locally based, multi-disciplinary services for young offenders. In recent years, however, this model has evolved in many parts of England and Wales, and at the same time the demand for youth offending services has changed. An important question for the review is whether Youth Offending Teams (YOTs), required and defined by the Crime and Disorder Act 1998, remain the best way to deliver youth offending services in the community.
23. There are 156 YOTs in England and Wales, and each tailors its services to reflect differences in geography, demographics, caseloads and local priorities, as well as local authority structures and finances. All YOTs perform their statutory function of supervising sentences passed by the courts, but the interventions they provide as part of these sentences are often locally designed and delivered. Similarly, the degree to which YOTs engage in work to prevent offending or divert low-level offenders from the system varies. In all areas multi-agency working is established at some level, and the review team has been impressed by the dedication and knowledge of managers and frontline practitioners working in these teams.
24. The statutory caseload of YOTs has fallen by 74% since 2006/07 and, as noted above, those who remain in the youth justice system demonstrate a range of complex needs linked to their welfare, health and education. These needs require a carefully considered and co-ordinated response from a number of partners, making the link between YOTs, children's, health and education services all the more critical if the root causes of offending are to be addressed.
25. We have been encouraged to find a number of innovative models for delivering youth offending services which seek to strengthen these links. In Surrey, for example, the youth offending service has been successfully integrated into the local authority's wider youth services, meaning that a child or young person in the criminal justice system can access the same broad spectrum of provision as a child who is homeless, not in education, employment or training (NEET), or has other welfare needs. This promotes a more comprehensive response to young people who offend and increases the opportunity to divert young people from the youth justice system and into effective services, while allowing greater flexibility in the length and intensity of support provided. Similar approaches were evident in Oldham, Gloucestershire, and Kingston and Richmond, though in each of these areas the youth offending and support services had been outsourced to community interest companies or other groups. In other parts of England and Wales local authorities have merged their YOTs in response to the falling numbers of young offenders, and in order to achieve greater reach and realise efficiencies.
26. In addition, the Ministry of Justice is working with the Department for Education to support The Campus Educational Trust as they develop plans for The Campus free school. The Campus would be a completely new type of school for young offenders, and aims to reduce youth re-offending through education.

27. Although some local authority officers have stressed the importance of the 1998 Act in requiring partners to come together in multi-agency teams, many have also asked for greater freedom to enable them to adapt their services to current demand and seek greater integration with their local children and family, youth, or mental health services. In addition, there are concerns that in some areas the existence of a YOT appears to have provided an opportunity for other local services to disengage with children who are offenders, but nevertheless require their support.
28. Inspection of local authority YOT services are led by Her Majesty's Inspectorate of Probation, whilst other children's services are inspected by Ofsted in England, and in Wales by Estyn and the Care and Social Services Inspectorate Wales. We will consider whether this remains the right arrangement.

A more devolved youth justice system

29. The youth justice system is already partially devolved to local areas, but some important aspects – the provision of youth custody and the monitoring of performance, for example – remain in the control of the UK Government. This uneasy division between centrally and locally-held responsibilities means that incentives are not always aligned and services not as integrated as they should be. This lack of integration is most evident when a young person makes the transition from custody to supervision in the community.
30. The review is keen to devolve further responsibility and funding for the delivery of youth justice to local areas to give them greater flexibility to design and manage the system to fit with their priorities and needs. This should be supported by a more streamlined accountability and monitoring system that reduces central prescription and allows greater freedom for innovation and collaboration between local partners.
31. The review will consider the feasibility of devolving the budget and commissioning responsibility for youth custody to local areas or regional bodies and the Welsh Government. This would allow local partners to consider commissioning services which meet the needs of a wider cohort of vulnerable young people, including children in care and those requiring secure mental health provision, and which erode the sharp boundary between custody and community provision.
32. The review team has met officials from the Welsh Government, Gloucestershire, Surrey and Sussex, and West Yorkshire, as well as the office of the Police and Crime Commissioner for Greater Manchester, the Mayor's Office for Policing and Crime in London, and a partnership of local authorities with the police in the West Midlands. All have expressed an ambition for greater control over the delivery of youth justice services in order to pool resources, integrate functions and commission services more strategically, and a number are developing proposals which are informing our thinking.
33. A more devolved youth justice system will result in a much reduced role for the centre. There will need to continue to be oversight from the UK Government, particularly during the process of transition to more local or regional delivery models, and close liaison and co-ordination will be important. It is envisaged that this role for the centre will include the setting of standards and the accountability framework, and making sure there is sufficient national custodial capacity. It is essential that youth justice continues to be considered by Ministers discretely from the adult criminal justice system.

How the youth justice system responds to children who break the law

34. It is extremely encouraging that the trend of reductions in first-time entrants to the youth justice system is continuing. It is better by far if the problems which lead a young person to offend are dealt with early and, where possible, outside the criminal justice system. The risk factors that make children more likely to offend are well-documented, but too often the services set up to support families and children in difficulties fail to intervene effectively or early enough. It is hoped that the devolution of greater responsibilities for youth justice to local areas, including potentially the budget and commissioning of youth custody, will promote investment in targeted preventative work and closer integration between prevention and youth offending services.

Diversion

35. Evidence shows that contact with the criminal justice system can have a tainting effect on some children making them more likely to reoffend, and that the diversion of low-level offenders through informal responses such as restorative justice or providing access to specific support services can often be a more effective and efficient response than the use of formal court sanctions. The evidence is less clear, though, on which interventions work with particular young offenders, and at which stages of the system.
36. The review team has seen some excellent examples of considered and proportionate diversion, including in Cardiff where a local charity runs a highly regarded service. The review will explore further the opportunities to divert children from the system where their offending does not require a formal response, or where other services are better placed to tackle the causes of their offending.

Use of police custody

37. Where children are arrested and detained by the police, it is vital that the safeguards and duties set out in legislation are applied in practice. Our ambition should be for children to spend as short a period of time in police detention as is necessary to complete essential processes, and that while there we take proper account of their vulnerability. It is encouraging that 17-year-olds are now treated as children in police custody, but assessing success against this broader ambition is difficult as little data on the detention of children in police custody are routinely collected.
38. The role of advocates and appropriate adults in the police interview process is critical to ensure children receive the advice and protection that they need. We are concerned, though, by the length of time many children spend in police detention while these services are sought. We are working with the Home Office to consider whether there are opportunities to improve the provision of appropriate adults for children.

39. We are also aware of concerns that some local authorities fail to provide accommodation for children who are refused bail by the police and who therefore have to spend the night in the cells. We welcome work between the Home Office and the Department for Education to establish a concordat to address this problem in England, and work between the Welsh Government, police forces and local authorities to develop guidance in Wales. Similarly, the inappropriate use of police detention for children experiencing mental health crises and requiring a place of safety remains a concern. The close involvement of health professionals, including Children and Adolescent Mental Health Services (CAMHS), is essential if children are to get the support they need and the police are quickly able to pass such cases to the relevant professionals.

Implications of contact with the youth justice system

40. We must make sure that a child's contact with the criminal justice system, particularly where this is fleeting or the result of low-level offending, does not disproportionately impair their prospects of pursuing their aspirations and playing a full role in society. The review will consider whether the long-term consequences of receiving a criminal record strike the right balance between protecting the public and employers from risk and promoting the reintegration and rehabilitation of young offenders.
41. Finally, we are concerned by the continued over-representation in the youth justice system of both looked after children and those from some black and minority ethnic (BAME) groups. One contributor to this problem is the criminalisation of children in care homes for conduct which would never result in a similar response if it happened in a school or family home. Some areas, such as Surrey and Sussex, have trained care home workers to improve their management of such behaviour, and have established protocols for when it is right to call the police. The review will consider what more can be done, including steps to introduce flexibility in how the police respond to such incidents. We will also engage with the recently announced review of BAME people in the criminal justice system to consider the steps that can be taken in relation to young offenders.