

Cynulliad Cenedlaethol Cymru
Y Pwyllgor Plant, Pobl Ifanc ac
Addysg
Ymchwiliad i Hawliau plant yng Nghymru
CRW 03
Ymateb gan: Y Bwrdd Cyfiawnder Ieuencid

National Assembly for Wales
Children, Young People and Education
Committee
Inquiry into Children's rights in Wales
CRW 03
Response from: Youth Justice Board

YJB Vision

A youth justice system that sees children as children, treats them fairly and helps them to build on their strengths so they can make a constructive contribution to society. This will prevent offending and create safer communities with fewer victims.

Who we are

1. The YJB is an independent public body with responsibility for monitoring the youth justice system in England and Wales. Our statutory responsibilities along with the expertise of our Board enable us to set standards for, and monitor the operation of, the youth justice system. Our work with the youth justice sector gives us an operational focus, which allows us to inform national policy and maintain a focus on the continuous performance improvement of youth justice services. We gather information and assess the effectiveness of the system and form an expert view of how the system can prevent offending and deliver the best outcomes for children who offend and for victims of crime. We advise ministers at the UK Parliament and Welsh Government and those working in youth justice services about how well the system is operating, and how improvements can be made. We share best practice; support information sharing and listen to what children say about the youth justice system and related services.
2. The YJB is the only official body to have oversight of the whole youth justice system and so is uniquely placed to guide and advise on the provision of youth justice services. The YJB team in Wales (YJB Cymru) has oversight of the system in Wales where youth justice is delivered through collaboration between devolved and non-devolved services. There are 17 Youth Offending Teams in Wales, they are multi-agency partnerships made up of police, probation, education, health, housing and social services.

3. Our Board have established the Youth Justice System Aims which are not only for the YJB to work towards but for the youth justice community. They are:
 - Reduce the number of children in the youth justice system
 - Reduce reoffending by children in the youth justice system
 - Improve the safety and well-being of children in the youth justice system
 - Improve outcomes for children in the youth justice system

Our Child first principle

4. The “child first” principle is at the centre of all YJB’s work. In Wales, YJB Cymru recognises that all our work relates to children’s rights in some way and we place a strong focus on children’s rights in alignment with the Rights of Children and Young Persons (Wales) Measure 2011.
5. The YJB believes, in line with Article 12 of the UNCRC, that all children in the youth justice system should have the opportunity to get involved in decisions about their care and supervision; access to the services they need; and a say in how those services work.
6. Approaches to preventing crime and addressing the needs and concerns of victims are more likely to be effective if they are informed by and co-designed with children. Engaging with and listening to children is essential in achieving these aims and should be at the heart of service design and delivery.
7. To achieve this in Wales, YJB Cymru has worked closely with teams from Welsh Government, the Children’s Commissioner for Wales and all other relevant services to consult with children on matters that affect them.

Age of Criminal Responsibility

8. The YJB would like to take this opportunity to highlight the issue of the age of criminal responsibility in England and Wales and the response to this by the UNCRC.
9. The YJB believes there is sufficient evidence to conduct a review of the age of criminal responsibility in England and Wales. The rationale for this can be summarised as below:

The UN Committee on the Rights of the Child (UNCRC) has consistently criticised England and Wales for its low age of criminal responsibility.

 - Serious offending by 10 and 11-year olds is extremely rare.
 - Evidence suggests most children who commit serious offences have complex welfare needs.

- The criminal justice system already recognises the capacity of children to make informed choices differ in important respects from those of adults.
- There are many options which could be considered to determine the age of criminal responsibility in England and Wales.

Standards for Children in the Youth Justice System (2019)

10. The YJB has introduced new Standards for Children in the Youth Justice System (2019), which build on the progress made and are intended to guide both strategic and operational services' understanding of what is expected at each stage of a child's journey through the justice system. The Standards will help to unite those supporting children and empower those children to take control of their lives and futures. The 'child first' principle, which runs throughout the Standards, will enable practitioners to take tailored and focused approaches to working with children. The Standards provide a structure that gives statutory youth justice services freedom in delivering services, and freedom to innovate.
11. These "standards for children in the youth justice system" define the minimum expectation for all agencies that provide statutory services to ensure good outcomes for children in the youth justice system. They are set by the Secretary of State for Justice on the advice of the YJB. The aim of these standards is to:
- provide a framework for youth justice practice and ensure that quality is maintained
 - encourage and support innovation and good practice to improve outcomes for children who commit crime
 - ensure that every child lives a safe and crime-free life, and makes a positive contribution to society
 - align with the YJB's "child first" principle.
 - assist the YJB and inspectorates when they assess whether youth justice services are meeting their statutory requirements

Youth Justice System in Wales and due regard to UNCRC

Prevention, pre-court diversion and community

12. Youth justice services in Wales are made up of a range of local, regional and national agencies working together – both devolved and non-devolved. The system exists to deal with children who commit crime and helps children who are at risk of entering the youth justice system. Multi-agency delivery with dual lines of accountability contributes to a complex and challenging delivery landscape. The need for bi-lateral arrangements at government and local have created a unique environment in which youth justice is located and in which it has successfully operated. There is strong collaboration and an effective working relationship between the Welsh

Government and YJB Cymru (which reflects the spirit of the Well-being of Future Generations Act (Wales) 2015). The Welsh Government has a prominent role in developing and delivering youth justice policy in Wales. The Wales Youth Justice Advisory Panel (WYJAP) is jointly chaired by Welsh Government and YJB. It carries out strategic oversight of the system in Wales and acts as a strategic reference group for change programmes in Wales providing check-and challenge to ensure the “child first” principle is central to development and due regard is always given to the UNCRC.

13. Youth justice in Wales is a success: first time entrants down 85% since 2007, similar reduction in the number of children in custody. This is a direct result of the holistic approach, commitment, investment and joined up work of agencies across Wales with policy and delivery partners operating in the best interest of children. Aligning with; UNCRC states “children should be [treated][responded] to in a manner, appropriate to their well-being and proportionate to their circumstances”.
14. Preventing children from entering the youth justice system is the cornerstone of a rights based approach. Wales has a national approach to pre-court diversion, substantively delivered through the Bureau (and Divert). This is a meeting between the YOT, police and a community member, child and their family, in which offending behaviour (which has a police gravity score of 1 to 3) is discussed and an outcome agreed. This could be a non-criminal disposal, youth caution or youth conditional caution. The outcome usually includes voluntary work with the YOT to address identified needs, to examine the consequences of further offending and/or to signpost children and their families to relevant sources of support. Pre-court diversion has been successful in diverting children from the criminal justice system and the increased use of non-criminal disposals for lower-level offending means that children do not acquire criminal records, which does not limit opportunity in the future.
15. Preventing children from entering the criminal justice system, minimising their contact with it and maximising opportunities for diversion increases the likelihood that they will lead crime free lives. Prevention and pre-court diversion practice has been preserved in Wales due a national strategic agreement and significant funding from the Welsh Government.
16. YOTs work in partnership with the policy areas that are devolved in Wales to fulfil statutory obligations and provide holistic support to children involved with youth justice. They have a duty to addresses the offending behaviour and to meet the needs of children either through direct intervention or signposting and referral to mainstream services including education, housing, family support, health (including mental health) and substance misuse.

17. As the numbers of children in the system have reduced, those who remain tend to face significant barriers to fulfilling their potential which stem from childhood adversity and the nature of their offending behaviour. Children in contact with the youth justice system are more likely to have mental health conditions, cognitive disabilities, problematic drug or alcohol use and a background of emotional trauma and Adverse Childhood Experiences (ACEs). The management of such diverse and complex needs requires a multi-agency response.
18. YJB has worked in partnership with Welsh Government, Public Health Wales and the All-Wales Forensic Adolescent Consultation and Treatment Service (FACTS) - and more lately South Wales Police and Crime Commissioner to develop the Enhanced Case Management (ECM) approach. This innovative approach recognises the prevalence of attachment and trauma related difficulties in the lives of children and in the youth justice system. Welsh Government has been a key partner in the development of this approach, their investment and duties to support children's rights.

Custody

19. In line with Article 37 of the UNCRC, the focus on prevention and pre-court diversion in Wales means that custody is used only as a last resort or for the most severe offences. Wales has two secure establishments for children and: Hillside SCH (six beds) and HMP and YOI Parc (60 beds). In both establishments there is an ethos of working with children in a positive way, building relationships and providing services that meet their needs and rights.
20. Hillside SCH is the only establishment in Wales which accommodates children on secure welfare orders but has insufficient capacity leading to Welfare beds not always being available and the placement of Welsh children outside of Wales.
21. There is a long-standing concern about the distant-placing of some children from Wales in secure accommodation in England. There is no reasonably distanced custodial provision within Wales for girls or boys from North Wales and this can limit contact with a child's parents or family which is in contravention of Article 9.
22. To minimise this, there is a well-established agreement between the Ministry of Justice and the Welsh Government that children from Wales, should be accommodated in an establishment that is best placed to meet their needs. This includes consideration of closeness to home and placement in England should be by exception.

23. YJB is also aware that there is a lack of secure in-patient provision in Wales for children with mental ill-health and no detoxification provision for those with acute substance misuse problems.

24. Custody and secure accommodation are areas there is a need for improvement. We have provided advice to the Welsh Government within the Youth Justice Blueprint for Wales.

Vision for the future:

Improving Outcomes for Children Youth Justice Blueprint for Wales

25. The Welsh Government invited the YJB to advise on the development of the Youth Justice Blueprint, which was published by the Welsh Government in May 2019. It sets out the advice from the YJB and recommendations to improve delivery of youth justice services and outcomes for children.

26. This advice sets out recommendations for youth justice in Wales, which:

- Take a 'child first' approach to youth justice, to ensure that it is child-centred, meets the individual needs of children and responds in their best interests.
- Take a trauma-informed approach throughout the various stages of the youth justice system, from prevention and early intervention to resettlement from custody, recognising and responding to adverse childhood experiences (ACEs) and indicators of complex need.
- Embed trauma-informed approaches into community and custodial practice to effect cultural and systemic change and deliver consistent approaches in meeting children's needs.
- Align devolved and non-devolved services through a shared vision, values and approach which underpins the design and delivery of services.

27. In developing the Youth Justice Blueprint, YJB Cymru considered:

- The Welsh Government's commitment to children's rights and the United Nations Convention on the Rights of the Child (UNCRC).
- The principle of 'child first, offender second' and how it is delivered in practice.
- It is recognised the development of the Youth Justice Blueprint will require Welsh Government Ministers to have 'due regard' for the UNCRC under the Rights of Children and Young Person's (Wales) Measure 2011.
- An Equality Impact Assessment will need to be undertaken for children with protected characteristic to ensure the proposals outlined are non-discriminatory, promote equitable practice and assist children to access their rights and entitlements.

28. In relation to custody; the Youth Justice Blueprint sets out an ambitious vision for a model that would best meet the needs of Welsh resident children whether they are remanded, sentenced to custody or in need of secure accommodation due to welfare, mental health or substance misuse needs:
29. We recommend development of a national therapeutic and trauma-informed secure provision in one or two small secure units delivered by a national trauma-informed service. Combining the expertise of forensic mental health, clinical psychology, social work and justice agencies. The facility would be flexible and able to meet the needs of children by age, gender, offending histories and length of sentence. It would be a centre of excellence, drawing on best practice in multi-agency working in a secure setting, meeting the needs of children requiring other forms of secure care, such as in-patient mental health care, detox for substance misuse or placement on a welfare order. This model would be unique and sector-leading. It would address current gaps in provision and offer a unified resource for vulnerable children in Wales and meet the requirements of most articles of the UNCRC but most specifically 9, 12, 19, 24, 25, 28, 29, 37, 39 and 40.
30. We are encouraged that the Welsh Government has published its commitment to exploring this model as part of the implementation of the wider recommendations in the Youth Justice Blueprint and believe this demonstrates their willingness to take positive action to further strengthen children's rights in Wales.

Conclusion

31. We have demonstrated in this response the YJB's work in Wales and beyond, the YJB is committed to a "child first" principle and Articles 1 - 54 set out under the UNCRC. Our work to ensure children receive these rights, now and in the future, is enabled by Welsh Government and other partners.
32. From our perspective, the Measure continues to influence Welsh government policy, decision making and investment, contributing to improved outcomes for children. The Well-being of Future Generations (Wales) Act 2015 and the Social Services and Wellbeing (Wales) Act 2014 provide a statutory basis for public bodies to develop services that comply with the Measure, ensuring the continued protection of children and improved outcomes.
33. Welsh Government has shown a commitment to further develop and embed rights based approaches for children involved with youth justice by publishing the "Improving Outcomes for Children Youth Justice Blueprint for Wales" and its implementation plan on the 21st May 2019.