

YOUTH JUSTICE – THE NEXT STEPS

SUMMARY OF RESPONSES AND THE GOVERNMENT’S PROPOSALS

YOUTH JUSTICE PROPOSALS

Extract from '*Every Child Matters*' – *Next Steps* at para 4.20

“The work we propose to take forward within the youth justice system complements that set out in *Every Child Matters*; the companion document *Youth Justice – The Next Steps* spotlighted issues relating to young people who, despite efforts to help them, go on to offend. Where they do commit crimes the focus for the people who work with them will continue to be preventing offending and tackling the factors that underlie it. We intend to clarify the law so that preventing offending is also the main purpose of sentencing, but we shall require courts also to have regard to public protection, welfare, punishment and reparation when deciding an appropriate sentence for a young offender. We shall make fuller use of parenting programmes, both with young offenders’ families and with young offenders who are themselves parents. We propose also to take steps to help as much as possible young defendants and their carers understand and prepare for their experience in court. We shall make sentencing simpler and more flexible, drawing on a broad menu of interventions that may be chosen from to meet individual need. The new Intensive Supervision and Surveillance Order will provide a robust alternative to custody, which will be a last resort for only the most serious or persistent young offenders. With the help of other children’s services, the youth justice system will focus in particular on helping young offenders re-engage with education, training and employment in the community.”

The following is Annex B to '*Every Child matters*' – *Next Steps*. It summarises the responses received to the September 2003 consultation paper *Youth Justice – The Next Steps*, the companion document to the children’s Green Paper *Every Child Matters*. It also sets out the Government’s proposals on youth justice following the consultation.

4 March 2004

CONSULTATION RESPONSE TO *YOUTH JUSTICE – THE NEXT STEPS*

Emerging Findings

1. The responses were generally very supportive of the general approach taken in *Youth Justice – The Next Steps* and in particular welcomed the whole-family concept with the involvement of the local community. It was also recognised by many respondents that the proposals would help to discourage the use of custodial sentences for children and young people. Some of the proposals were seen as a step-change in the provision of credible community replacements for custody.
2. There was some criticism that *Youth Justice – The Next Steps* was published separately from *Every Child Matters*. The implication was taken that Government sees young offenders as different from children with other social needs. Many of the respondents believed that the welfare of the child should be an integral part of the Youth Justice System and that steps should be taken to ensure full compliance with the UN Convention on the Rights of the Child (UNCRC). One organisation wrote: *“Children in trouble deserve the same care from the authorities and the same services provided to other children in need. Children living in prison are first and foremost children. It was disappointing to see a separate document was published.”*
3. Many of the proposals were considered to be “common sense” improvements to the current system, though respondents pointed out that additional resources would be needed to implement the proposals.
4. In parallel with *Youth Justice – The Next Steps*, as part of the same consultation process, the Government published a leaflet *Stopping Youth Crime – tell us what you think* in order to collect children’s and young people’s views. 50,000 leaflets were printed in English and 5,000 in Welsh. The six sections and questions contained in the leaflet were also included on six popular children’s and young people’s websites. 1,973 completed leaflets were returned and 5,887 surveys were completed online, making a total of 7,860 responses from children and young people.
5. Comments received on the specific proposals under the various themes, and responses from children and young people, are set out below:

Pre-court interventions

6. Respondents were positive about the current Final Warning Scheme and there were some who suggested that it would be better to let the reforms settle down before making further changes. However there was also some support for finding ways of extending pre-court intervention. One organisation wrote *“We welcome the Government’s recognition that diversion is a positive approach to dealing with children and young people who offend and we fully support the further development of diversionary schemes.”*
7. At the same time, many warned against returning to anything like repeat cautioning. There was a suggestion to develop some form of community panels without the need for any youth justice disposal.

General Sentencing Principles and structure

8. Many children's organisations and some Youth Offending Teams thought that welfare should be at the core of thinking when deciding a sentence. However, there was significant support for making "preventing offending" the purpose of sentencing, provided that welfare was included in the list of other considerations. Some believed that the proposal as set out in *Youth Justice – The Next Steps* was not in accordance with UNCRC. There was one suggestion that courts should have to use the welfare checklist under Children Act 1989 when making their sentencing decisions for children and young people.
9. Young people's views on what should help the court decide what punishment to give a young offender, were:
- Stopping him getting involved in crime **5978**
 - Keeping him safe and healthy **1518**
 - Making the victim of the crime feel satisfied **1031**

Families and communities

10. There was a lot of support for the proposals on parenting but also a general preference for keeping parenting programmes voluntary as far as possible. It was thought to be helpful to encourage both parents to engage when the child offends, but that care would be needed for cases where the father is abusive in the family. There was also support for the selective use of Family Group Conferencing in conjunction with parenting programmes and other interventions. On the general theme, one respondent wrote *"The work with parents has been one of the very effective interventions and we welcome any process to widen this."*

Policing, public order and courts

11. There was a universal welcome for more support for young defendants and families to understand the youth justice process better. An overwhelming majority of young people favoured a video version of a young defendant's information pack, presented by a special worker. DVD and CD-ROM versions were also popular, as was an interactive website with virtual tours. Practice courts, books and leaflets, and younger judges were also popular, and a number of respondents expressed preference for guidance by ex-offenders. Many children and young people also thought that the judicial process should be taught in schools as part of the national curriculum: *"Schools tell us about drugs so why can they not tell us about courts, GBH and stealing as well?"*
12. Young people's views on these issues were:
- Is the information pack a good way of explaining what happens in court?
- | | | |
|-----|---|-------------|
| Yes | - | 7408 |
| No | - | 1270 |
- Is having a special worker for young people in court a good idea?
- | | | |
|-----|---|-------------|
| Yes | - | 4223 |
| No | - | 1004 |
13. Many respondents supported the specialisation of judges. However the judges' representatives pointed out that further "ticketing" of judges would make it difficult to provide judges at the right time in each area to hear child defendant cases, and delays

if none were available. It was suggested instead that all judges should receive additional training for handling cases where the defendant is a child or young person.

- Should judges for young people be specially chosen and trained to deal with young people's crimes?

Yes - **5680**
No - **1040**

- Would the money for training judges be better spent elsewhere?

Yes - **897**
No - **993**

14. On the question whether money spent on training judges could be better spent elsewhere, the majority of young people felt that specially trained judges would help in young people's understanding of the court. Their views ranged between lowering the age for prison sentences and constructing new jails, to getting judges to spend a number of days with young people and also training younger judges. Responses included comments such as "*More activities be made available for young people so that they are off the streets and do not get into crime.*"

Remands

15. The proposal to provide more bail accommodation for young people to enable courts to be confident with bail decisions and reduce remands to custody was warmly welcomed, though many respondents favoured alternative solutions to bail hostels. Some respondents also argued that the Government should address the issue of 17-year-olds who are treated as adults rather than juveniles for bail and remand purposes.

Sentencing in the community

16. There was general support for a limited extension of Referral Orders, but a warning that they should not be used with a not-guilty plea.
17. Respondents were generally supportive of the idea of simplification of juvenile sentencing. However magistrates expressed concern and thought that having just one community sentence could lose the 'bite' of progressively more severe punishments. It was argued that it would be harder for multiple offenders to understand that a later Order is any different or more serious than the first one. Some thought that there was a risk of misunderstanding and insufficient use of the sentence, leading to escalation into custody.
18. There was general support for the concept of a menu of interventions to be used as appropriate for an individual offender, but respondents disliked a limit on the number that could be used in one sentence. There was some support to retain adult sentences for 16 and 17-year-olds but, if they were to be dropped, it would be important to retain the probation service input – including sufficient resources – into the youth justice system because of their professional experience with older juveniles. One organisation wrote "*Allowing courts to select a variety of interventions from a menu is a good way of ensuring that judges have the ability to tailor an Action Plan to the individual offender and his or her needs.*"

19. Respondents were very supportive of the inclusion of a reparation element within the sentence, but pointed out that victim involvement must always be the victim's decision and there should be no pressure to include them.
20. Young people were asked what they thought if there were only four choices of sentence in an example where the offender appears for the first time in court and guilty of credit card fraud. The choices they were offered were: a) he is let go without punishment, b) he has to pay a fine, c) specially chosen community group decides the punishment, and d) he gets 2 or 3 smaller punishments.
- Are these four choices enough for the court?

Yes	-	5982
No	-	2613
21. When they were asked what else is important when a young person is punished, frequent responses included: the nature of the crime, age, just punishment, increased monitoring, reparation, rehabilitation, circumstances of committing crime, public safety, peer and family pressures, and a second chance. A number of children and young people also expressed views such as: *"Make sure the young person knows and understands that he has committed a crime."*
22. Support was voiced for the proposals on fostering arrangements but some pointed out the difficulties of finding suitable foster parents. There was concern that the Youth Justice System might "snatch" the good quality foster placements for young offenders leaving social services with difficulties for other children in need. Subject to overcoming that difficulty, fostering was regarded as a positive proposal.
23. Young people's answers to the question as to whether it is a good idea to split an offender from her family if they are the reason for her involvement in crime, were:
- | | | |
|-----|---|------|
| Yes | - | 6091 |
| No | - | 2462 |
24. Respondents to *Youth Justice – The Next Steps* generally saw the proposals for Child Behaviour Contracts as unnecessary, because children undertaking a court-imposed sentence already sign a contract of behaviour with the Youth Offending Team. In any case many said that there could be no enforcement of breaches, so it was not worth pursuing.

More intensive sentences, including custody

25. A lot of support was voiced for Intensive Supervision and Surveillance, especially to help keep young offenders out of custody. However many respondents felt that the proposal in *Youth Justice – The Next Steps* for one sentence of either supervision or custody was confusing for everyone, including the offender. A few questioned the use of custody at all for under-18s except in very extreme cases.
26. A number of organisations disagreed with the proposal to remove the persistency criteria for custody for 12-14 year-olds, but welcomed the reduction to 12 months maximum for that age group. Some respondents estimated that it would increase overall numbers of children in custody. Some also suggested that the Government should reduce the length of the minimum Detention and Training Order (DTO), currently 2 months in custody followed by 2 months in community. However others said that even 2 months in a secure establishment was too short to be useful to the

offender. Some respondents argued that Prison Service juvenile Young Offender Institutions were not suitable for young people and welcomed the references to the continuing work to move girls and vulnerable boys to better accommodation.

27. There was general support for new style units, including open as well as semi-secure conditions, though some pointed out that these were needed for lesser-population areas as well as close to major population centres.

28. Young people's answers on the sentencing options of a 17-year-old who has committed violent crimes and is again in court for seriously hurting another person were:

- Is it a good idea to keep him out of prison if someone keeps an eye on him?

Yes	-	5313
No	-	3177
- Is this fair to victims?

Yes	-	3572
No	-	3896
- Is two months imprisonment:

too short	-	3654
too long	-	998
just right	-	3817

29. Their views on what other punishments the courts should be allowed to choose from included more community sentences with assigned mentors, tagging, and constructive community work. The responses also included punishments like boot camps, a short custodial sentence, and attendance at "special schools". Some comments suggested taking away privileges and endorsing embarrassing punishments: *"The judge should take away their playstation instead of a £10 fine, it would have more effect."*

Staff and organisation

30. There were generally differing views expressed about whether Yots should be integrated into new Children's Trusts. Some supported the view that they should join the Trusts, but others said that Yots should be kept in the CJ System and act as "bridge" between the criminal justice and children's services. Some thought that Government should direct the approach to take while others preferred local discretion.

31. There was a general welcome for the suggestion to review Yot core membership – and many suggested adding housing to it. There was also support for the staff training and qualification proposals, subject to some adding that training should include victim perspectives.

32. Some suggested that Yot workers should come under the Children's Workforce Unit in DfES, though this was by no means universally supported. There was concern that there were insufficient staff generally in the children's area of work.

Other issues not mentioned in *Youth Justice – the Next Steps* but raised in the responses to the consultation

33. Some respondents took the opportunity to voice their concerns on issues that had not been raised in the consultation paper. These were:

- The Government should take opportunity to raise the age of criminal responsibility.
- The only way to prevent offending was to make welfare services available, which was not always done in practice.
- Breach provisions should be enforceable: there was no point otherwise in having them.
- Young victims have access to video links to court but not young defendants; and this should be reviewed.
- Some commented that the Auld recommendation on a strengthened Youth Court was a good proposal and should still be implemented.
- The different arrangements in Wales should be respected, in particular the co-ordination with the Young People's Partnerships.

YOUTH JUSTICE : WHAT HAPPENS NEXT

1. *This section sets out what decisions the Government has made following the consultation in Youth Justice – The Next Steps and what action will be taken to put these decisions into effect. Some of them will depend on resources or parliamentary time.*
2. **Links with other children’s services:** *Children and young people who commit offences are part of the wider community, and many of them have experienced problems for much of their lives – for example in family relationships, education and health. That is why Every Child Matters emphasised tackling children’s problems as they emerge, and substantial funding programmes are being run to support families and work with young people at high risk. The Government wants the youth justice system to complement that work by ensuring a particular focus on those who despite all efforts do become offenders in their teens – which damages not only their and their families’ interests but also the wider community. Our youth justice approach therefore focuses on preventing offending but also on tackling the factors which underlie it. This is reflected in particular by what we have to say below on the approach to sentencing, parenting and family measures, the experience of going to court, remands in the community, broader community sentences supported by a range of activities and facilities, intensive supervision to replace custody wherever possible, improving the quality of custody where it is needed and strengthening the skills of staff and local structures to deliver services.*
3. **Pre-court interventions:** We have decided not to change the existing statutory framework on Reprimands and Final Warnings because it provides speed, simplicity and effective sanctions for failure to comply. We do propose to take administrative action to ensure that the scheme is used to its full capacity and we shall issue guidance so that reasons are stated in open court whenever the scheme is bypassed. We also intend to put forward legislation at a suitable opportunity to amend the Rehabilitation of Offenders Act to ensure that Reprimands and Final Warnings are not citable to prospective employers.
4. **General sentencing principles and structure:** We unreservedly accept that welfare is an important consideration when a court has to make a decision on the appropriate sentence for a young offender. But we believe that the main purpose of a sentence imposed by a court on conviction of a criminal offence by a juvenile should be to prevent their further offending and we shall legislate to clarify this in law. Courts will also be required to have regard to other factors including public protection, welfare, punishment and reparation. The interventions which are used to help the young person deal with their offending behaviour would include activities and support which have been assessed as appropriate for the individual. The Sentencing Guidelines Council will also provide guidance to courts on juveniles. In addition, we will include preventing anti-social behaviour in the duties of the Youth Justice Board and youth offending teams.
5. **Families and communities:** We shall promote the fuller use of parenting measures, including Family Group Conferencing and family therapy, by youth justice agencies and shall issue guidance. We shall also provide parenting programmes for young offenders who are themselves parents. We recognise that some of these offenders are “hard to reach” and their needs are not being met by current programmes. We plan to establish

family group conferencing in 15 youth offending team areas to promote this technique as a form of restorative justice.

6. **Policing, public order and courts:** We propose to develop a Young Defendant's Pack to help young people and their parents or carers understand and prepare for their court experience – to promote understanding and acceptance of responsibility. We shall also examine the scope for involving voluntary agencies in supporting them at and before court, and further promote simpler language in court. We propose to discuss with the Judicial Studies Board ways in which the particular needs of young defendants can be met through training for crown court judges and with the relevant professional bodies in respect of training for lawyers.
7. **Remands:** We shall issue guidance to ensure pre-sentence reports are consistently well targeted and provide the information courts need. We propose to provide a wider range of supported accommodation for young people on bail or community sentence. We also propose to encourage the use of remand fostering and consider how to increase the provision of places.
8. We also propose to legislate to treat 17-year-olds as juveniles for the purposes of remand and bail. There will be separate consultation on the question of the status of 17-year-olds being interviewed by the police under PACE legislation.
9. **Sentencing in the community:** We believe that it is important for the sentencing options to be simpler and more flexible. The Reparation Order and Referral Order will maintain their distinct roles but otherwise we shall legislate to introduce a new generic juvenile community sentence with a wide menu of interventions. This new Juvenile Rehabilitation Order will replace the eight current community sentences.
10. The Junior Attendance Order will be merged into this new sentence. We propose to devolve responsibility for the existing junior centres to Youth Offending Teams and they will operate as **Youth Justice Centres** to provide a wider range of activities in support of the sentence - including counselling, sport, education (basic and life skills), training, employment and community service.
11. Modifying our original proposal for Child Behaviour Contracts, we shall build on the success of **Acceptable Behaviour Contracts** and encourage their use with positive requirements as part of the early intervention work by Youth Inclusion and Support Panels.
12. We propose to improve the leverage of Youth Offending Teams in accessing local **accommodation** for young defendants on bail and for convicted young offenders through buying retainers on emergency beds, bonds and specialist advice or placement services. They need to be able to make full use of existing accommodation in the community – whether provided by local authorities, housing associations or private landlords. We also propose to pilot intensive fostering as an alternative to custody for convicted young offenders.
13. We shall establish **outreach services** for young offenders serving sentences in the community including those leaving custody. These services will provide practical advice and help to the young person to re-engage with the statutory and other services in the community. We shall also negotiate with local authorities to identify more **reparation projects** suitable for juvenile offenders which help local communities.

14. We propose a limited extension to **Referral Orders** to allow them on a later court appearance, for example where the young person has not previously received one or did so at least two years ago.
15. **More intensive sentences, including custody:** Modifying our proposals to make the structure clearer, we shall legislate to establish a new **Intensive Supervision and Surveillance Order** as a robust alternative to custody for the more serious or persistent offenders. We shall retain the Detention and Training Order (DTO) and also provide that 12-14-year-olds would no longer need to be both serious and persistent to receive a DTO, but that the maximum term for them would drop from 24 to 12 months.
16. During the community part of a DTO we shall bring a particular focus on activities to help young offenders re-engage with **education, training and employment**. In addition supervising officers will be able to choose from the same range of interventions as are available to offenders serving a community sentence. We shall explore further how to improve the continuity between education in custody and in the community.
17. We shall continue to work with the Youth Justice Board to make improvements to the **juvenile secure estate**. We now plan to develop self-contained units to separate girls aged under 18 from those over 18. In the longer term, we propose progressively to develop new-style open and semi-secure custodial units near to major population centres.
18. We propose to continue the roll-out of the **Professional Certificate in Effective Practice** for youth justice workers, providing for Access Awards and expanding the present Advance Modern Apprenticeship Scheme.
19. We shall legislate to take power to vary the core membership of **Youth Offending Teams** in order to give us the flexibility to deal with changing circumstances. We shall also consider adding housing to the core membership. And Youth Offending Teams would be able to operate within wider Children's Trusts where that makes sense locally.