

THE YOUTH JUSTICE SYSTEM OF ENGLAND AND WALES

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I. INTRODUCTION

This paper will describe the Youth Justice System of England and Wales, beginning with the legal framework setting out the Court arrangements, the work done on prevention and the options for disposal, before going on to discuss the governance commissioning and delivery frameworks for youth justice. It will then explore the background to youth offending in England and Wales, looking at numbers of offenders and the range of court disposals, including the use of custody and the causes of offending. It will also look at work on international comparisons of the use of custody. The second part of the paper will focus on the work of the public sector Prison Service caring for young people in custody. This will begin by outlining the aims set out in Prison Service Order 4950 which governs the care of young people; it will then go on to explore measures to ensure that young people are held in safe and decent conditions; the work that is done to reduce the risk of young people reoffending; and how the Prison Service and the outside agencies, primarily the Youth Offending Teams, work together to deliver Offender Management. Finally the paper will consider possible future developments.

II. THE LEGAL FRAMEWORK

A. Age of Criminal Responsibility

Section 50 of the Children & Young Persons Act 1933 states: “It shall be conclusively presumed that no child under the age of ten years can be guilty of any offence.”

B. Definition of ‘Children’ and ‘Young People’

In the criminal justice system a ‘child’ means a person under the age of 14; and ‘young person’ means a person who has attained the age of 14 and is under the age of 18 (see, for example, section 117 of the Crime and Disorder Act 1998). However, for the purposes of the Children Acts 1989 and 2004, a ‘child’ is anyone who has not reached their eighteenth birthday. Although the phrase ‘juvenile’ is still widely used to describe young people under 18 in English it carries connotations of childish and of immature behaviour which can be seen as labelling and so we are increasingly seeking to use the term ‘young people’.

C. Aims of Youth Justice System

Section 37 (1) of the Crime and Disorder Act 1998 establishes that the principal aim of the youth justice system is “to prevent offending by children and young persons.”

D. Prevention

Government policy in England and Wales has explicitly sought to promote work to prevent offending by young people. Through the work of local Youth Offending Teams (YOTs) a wide range of prevention work targeted at offenders and at those who are seen as being most at risk of offending has been developed.

One of the best and most cost-effective ways to reduce youth crime is to prevent young people from getting into trouble in the first place, by dealing with the problems that make it more likely they will commit crime or anti-social behaviour. Early intervention to prevent young people offending could save public services more than £80 million a year, according to the Audit Commission’s report *Youth Justice 2004: A Review of the Reformed Youth Justice System*.

Problems that may lead to a young person’s troublesome behaviour include a lack of education, poor

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family relationships, having family members or peers who have offended, and misuse of substances. The following programmes aim to deal with risk factors, engage young people's interests and increase their knowledge:

1. Youth Inclusion Programme (YIP)

Youth Inclusion Programmes (YIPs), established in 2000, are tailor-made programmes for 8 to 17 year olds who are identified as being at high risk of involvement in offending or anti-social behaviour.

YIPs are also open to other young people in the local area. The programme operates in 110 of the most deprived/high crime estates in England and Wales.

YIPs aim to reduce youth crime and anti-social behaviour in neighbourhoods where they work. Young people on the YIP are identified through a number of different agencies including Youth Offending Teams (YOTs), police, social services, local education authorities or schools, and other local agencies.

An independent national evaluation of the first three years of YIPs found that:

- arrest rates for the 50 young people considered to be most at risk of crime in each YIP had been reduced by 65%;
- of those who had offended before joining the programme, 73% were arrested for fewer offences after engaging with a YIP;
- of those who had not offended previously but who were at risk, 74% did not go on to be arrested after engaging with a YIP.

2. Youth Inclusion and Support Panels (YISPs)

Youth Inclusion and Support Panels (YISPs) aim to prevent anti-social behaviour and offending by 8 to 13 year olds who are considered to be at high risk of offending.

They have been designed to help the YJB meet its target of putting in place, in each YOT in England and Wales, programmes that will identify and reduce the likelihood of young people committing offences.

Panels are made up of a number of representatives of different agencies (e.g. police, schools, health and social services). The main emphasis of a panel's work is to ensure that children and their families, at the earliest possible opportunity, can access mainstream public services.

3. Parenting

Parenting programmes provide parents with an opportunity to improve their skills in dealing with the behaviour that puts their child at risk of offending. They provide parents/carers with one-to-one advice as well as practical support in handling the behaviour of their child, setting appropriate boundaries and improving communication. Poor parenting is seen as one of the major risk factors associated with young people at risk of offending.

Parents with a child who has become involved with the youth justice system may be offered the opportunity to voluntarily attend a parenting programme by the local YOT, if they consider that it would be useful. However, if voluntary participation cannot be achieved, a Parenting Order can be sought by the YOT which compels the parents/carers of a child at risk to attend.

4. Safer School Partnerships

The Safer School Partnerships (SSP) programme enables local agencies to address significant behavioural and crime-related issues in and around a school. A result of the YJB's proposal to develop a new policing model for schools, the SSP programme was launched as a pilot in September 2002, and brought into mainstream policy in March 2006.

All schools involved in the Safer School Partnerships initiative have a police officer based in their school. The school-based officer works with school staff and other local agencies to:

- reduce victimization, criminality and anti-social behaviour within the school and its community
- work with schools on whole-school approaches to behaviour and discipline
- identify and work with children and young people at risk of becoming victims or offenders
- ensure the full-time education of young offenders (a proven preventative factor in keeping young people away from crime)
- support vulnerable children and young people through periods of transition, such as the move from primary to secondary school
- create a safer environment for children to learn in.

Close working between police and schools is seen as crucial to keeping children in education, off the streets and away from a life of crime. This is a joint initiative between the Department for Children, Schools and Families, the YJB and the Association of Chief Police Officers.

5. Mentoring

Mentoring pairs a volunteer with a young person at risk of offending. The volunteer's role is to motivate and support the young person on the scheme through a sustained relationship, over an extended period of time. The relationship is built upon trust and a commitment to confidentiality and equality between the mentor and the young person.

The relationship must be structured and have clearly identified objectives. These objectives should be to help the young person identify and achieve educational, vocational or social goals which address the factors in the young person's life that put them at risk of offending.

E. The Court System

When a young person is charged with an offence, they will appear before the youth court. If the case cannot be dealt with immediately, the court will make a decision as to whether the young person will be bailed or remanded into custody.

If a young person pleads not guilty, a date will be set for the trial when the magistrates will hear all the evidence and decide whether or not the young person is guilty. If the decision is guilty, they will then decide on the most appropriate sentence. If the case is very serious, the youth court will send the case to the Crown Court for trial and/or sentence.

1. The Youth Court

Adult magistrates' courts can only undertake trials and sentence people for offences for which the maximum penalty is six months in prison. Magistrates' courts deal mainly with cases involving people over the age of 18. They can deal with young people, but only if they are being tried with an adult.

The youth court is a section of the magistrates' court and can be located in the same building. It deals with almost all cases involving young people under the age of 18. This section of the magistrates' court is served by youth panel magistrates and district judges. They have the power to give Detention and Training Orders of up to 24 months, as well as a range of sentences in the community.

Youth courts are less formal than magistrates' courts, are more open and engage more with the young person appearing in court and his or her family. Youth courts are essentially private places and members of the public are not allowed in. The victim(s) of the crime, however, has/have the opportunity to attend the hearings of the court if they want to, but they must make a request to the court if they wish to do so. The needs and wishes of victims will always be considered by the court and, through the youth offending team (YOT), they often have the opportunity to have an input into the sentencing process.

2. Non Custodial Disposals

When young people first get into trouble, behave anti-socially or commit minor offences, they can usually be dealt with, by the police and local authority, outside of the court system, using a variety of orders and agreements. This is to stop young people getting sucked into the youth justice system too early, while still offering them the help and support they need to stop offending.

Pre-court measures

- Reprimand
- Final Warning

Anti-social behaviour measures

- Acceptable Behaviour Contract (ABC)
- Anti-Social Behaviour Order (ASBO)
- Individual Support Order (ISO)

Other measures

- Local Child Curfew

3. Sentences in the Community

- Supervision Order
- Community Rehabilitation Order
- Community Punishment Order
- Action Plan Order
- Attendance Centre Order
- Referral Order
- Reparation Order
- Fine
- Conditional Discharge
- Absolute Discharge

4. Custodial Sentences

(i) *The Detention and Training Order*

Section 73 of the Crime and Disorder Act 1998 (now section 100 of the Powers of Criminal Courts (Sentencing) Act 2000), established a new custodial sentence, the Detention and Training Order (DTO) for young people aged under 18 years. The new sentence was devised to rationalize the sentencing arrangements which previously existed for those aged under 18 and to make custody more effective in preventing reoffending. The DTO replaced the sentences of detention in a young offender institution (DYOI) for 15-17 year olds, and the sentence of the secure training order (STO) for 12-14 year olds.

The only DTO sentences available to the courts are ones of 4, 6, 8, 10, 12, 18 and 24 months. Half of the sentence is served in custody and the other half under supervision in the community. Consecutive sentences are also available to the courts but only up to a maximum of 24 months (i.e. 12 months in custody). Young people sentenced to a DTO who reach the age of 18 will continue to serve the DTO; it cannot be converted into a term of DYOI.

Section 37 (1) of the Crime and Disorder Act establishes that the principal aim of the youth justice system is "to prevent offending by children and young persons." Section 37 (2) imposes a duty on everyone working in the youth justice system to have regard to that aim. The DTO is designed to ensure that the most appropriate form of training is provided for each young offender to help prevent further offending. To enable this, the DTO can be served in a secure children's home (SCH), in a Secure Training Centre (STC), in a YOI and in any other place that the Secretary of State determines.

For those serving eight months or more but under 18 months release from custody *one* month earlier or later than the mid point of the total sentence is possible. For those serving 18 months and over, release from custody two months earlier or later than the mid point of the total sentence is possible. However, decisions to transfer early or late will be authorized only when clearly established criteria have been met. There is a presumption in favour of *early* release.

(ii) *Sentences for Serious Offences*

Section 90 of the Powers of Criminal Courts (Sentencing) Act 2000 (formerly Section 53(1) of the Children and Young Persons Act 1933) provides that a person aged under 18 (at the time of the offence) convicted of murder shall be sentenced to be detained at Her Majesty's pleasure. Section 91 (formerly Sections 53(2) and 53(3) of the 1933 Act) provides that children and young people convicted of certain

specified “serious” offences other than murder which in the case of an adult are punishable with imprisonment for 14 years or more, may, if no other methods of disposal are deemed suitable, be sentenced up to the adult maximum for the offence, which may be for life. Those sentenced under Section 90 or 91 are liable, under Section 92 (formerly part of Section 53(3) of the 1933 Act), to be “detained in such place and under such conditions as the Secretary of State may direct or arrange with any person.”

A Section 90/91 sentence is passed not only to meet the requirements of retribution and deterrence but also to reflect the fact that special attention needs to be given to the offender’s rehabilitation. Such sentences vary considerably in their length and consequently in terms of how and where the offenders spend their time in custody. At one end of the scale is the young person who is sentenced to no more than a few months’ detention and who, because of his/her age or vulnerability, will spend the whole of the custodial period in secure accommodation in a SCH. At the other end of the scale are those who are convicted of murder or some other grave crime and who, after spending periods first in a SCH or STC and then in a Prison Service under 18 establishment, will eventually move, via a young adult (age 18-20) YOI, to the adult prison system to complete the custodial part of their sentence.

A determinate sentenced ‘section 91’ young person will in most cases receive automatic release on licence at the mid-point of their sentence. Home detention curfew will normally be available. The licence period in the community lasts until the sentence expiry date.

The procedures for the release of those young people sentenced to detention at her Majesty’s pleasure or detention for life are similar to those for adult Lifers and involve consideration by the Parole Board.

(iii) Sentences for Public Protection and for Certain Violent or Sexual Offences

Section 226 of the Criminal Justice Act 2003 provides that young people convicted of a specified sexual or violent offence carrying a maximum penalty of 10 years’ imprisonment or more and who are considered by the court to be dangerous will be eligible to receive a sentence of *detention for public protection* unless the court considers that:

- a Section 91 sentence of detention for life (see above) is justified; or
- an Extended Sentence under section 228 (see below) would be adequate in terms of public protection.

A section 226 sentence means that the young person must remain in custody until the custodial part (the tariff) set by the Court has been served, at which time the offender will become parole eligible. Release from custody is at such a time as the Parole Board feels that it is safe for them to be released, i.e. when a full risk assessment indicates that they no longer pose a significant risk to the public. Home Detention Curfew is not available. Once released, the young person may remain on license indefinitely, but in contrast to life licensees, they can apply to have their licence reviewed at the 10 year point by the Parole Board and at yearly intervals thereafter. The licence will be terminated if the Parole Board considers it safe to do so on the grounds of public protection.

Section 228 of the 2003 Act provides that young people who have been convicted of specified sexual or violent offences (including if they have been convicted of an offence carrying a maximum penalty of 10 years or more) and who are considered by the court to be dangerous, will be eligible to receive an *Extended Sentence* which extends the period on licence and excludes them from early release except on parole.

III. GOVERNANCE, COMMISSIONING AND DELIVERY FRAMEWORKS

A. Responsibility for the Youth Justice System

To ensure an integrated approach to Youth Justice in which justice and child welfare policies are in harmony and practitioners in both fields can work together effectively, the Department for Children, Schools and Families (DCSF) and the Ministry of Justice (MoJ) have been given a shared responsibility for youth justice policy and funding. A Joint (DCSF/MoJ) Youth Justice Unit has been established with the dual aims of

- contributing to the protection of the public by developing policy and law in relation to children who offend and are at risk of offending, to ensure implementation and delivery; and

- contributing to the outcomes of *Every Child Matters* in terms of ensuring children and young people in contact with the criminal justice system achieve all five outcomes.

This last bullet point is a reference to the 2004 Children's Act which underpins the "Every Child Matters: Change for Children" programme in England and a number of similar initiatives in Wales. All these programmes/initiatives lay particular emphasis on multi-agency working at local level to improve outcomes for children.

Section 10 of the 2004 Act (Section 25 for Wales) requires cooperation between local authorities and other specified bodies or agencies to improve the well-being of children in the authority's area; and it defines "well-being" by the following five outcomes:

- physical and mental health and emotional well-being
- protection from harm and neglect
- education, training and recreation
- the contribution made by them (the children) to society
- social and economic well-being

B. The Commissioning Framework

1. The Youth Justice Board (YJB)

The YJB is a non-departmental public body set up by the Crime and Disorder Act 1998 (Section 41). Its purpose is to monitor the operation of the youth justice system and the provision of youth justice services; and to advise the Justice Secretary about how the principal aim of the youth justice system might most effectively be pursued, and on the content of any national standards he or she may set with respect to the provision of the entire secure juvenile estate. The Joint Youth Justice Unit is the departmental sponsoring body for the YJB.

(i) Community Supervision

(a) Youth Offending Teams

The Crime and Disorder Act 1998 (section 39) requires local authorities with social services and education responsibilities to establish a Youth Offending Team or teams, in partnership with the police, probation service and health authorities. The YOTs, which have been in place in all areas of England and Wales since April 2000, must include social workers, police and probation officers and education and health staff, and may include staff from other agencies, including local custody providers, if this is considered appropriate. Managers from other agencies may also be involved in local steering arrangements for the teams. The role of the YOTs is to work with young offenders and those at risk of offending in the community to turn them away from crime. The teams deliver or co-ordinate the delivery of a range of youth justice services, including bail support and the supervision of community sentences and of young people released from custody. How these services are to be delivered and funded locally and the functions and funding of the youth offending teams have to be set out in an annual youth justice plan, drawn up by the local authority in consultation with other agencies, and which is submitted to the YJB and published. Local custody providers should be consulted in drawing up the plan. Inter-departmental guidance on establishing YOTs was issued on 22 December 1998 and sent to Governors.

A key feature of the DTO is the importance attached to the continuity of work with each young person after transfer to the community. To ensure this, a supervising officer will be appointed by the YOT to each young person immediately after sentence and will establish and maintain contact with them throughout their time in custody, contributing to the sentence planning, review and preparation for release. The supervising officer is the establishment's main point of contact with the YOTs, these being the means by which effective inter-agency planning and co-operation will be organized and delivered locally. Governors must keep the supervising officer informed of all the developments and the difficulties experienced by the young person in custody and put in place arrangements to facilitate quality contact between the establishment, the young person and supervising officer.

(b) Commissioning of Secure Accommodation

From April 2000, under powers conferred by Section 41(5) of the Crime and Disorder Act (as amended by the Youth Justice Board for England and Wales Order 2000), the YJB became the commissioning and

purchasing body for all forms of secure accommodation for children and young people.

2. Secure Accommodation

There are three types of establishment in which 10 to 17 year olds sentenced or remanded to custody in England and Wales can be placed:

- secure children's homes
- secure training centres (STCs)
- young offender institutions (YOIs).

(i) Secure Children's Homes

Secure children's homes are run either by local authority social services departments or by private companies, overseen by the Department of Health and the Department for Children, Schools and Families. Out of the three types of establishment, secure children's homes have the highest ratio of staff to young people, and are generally smaller, ranging in size from six to 40 beds. They are usually used to accommodate younger children (those aged 12 to 14), young women up to the age of 16, and 15 to 16 year old young men who are assessed as needing extra care.

(ii) Secure Training Centres

STCs are purpose-built centres for young people up to the age of 17. They are run by private operators under Youth Justice Board for England and Wales (YJB) contracts, which set out detailed operational requirements. There are four STCs in England:

- Oakhill in Bedfordshire
- Hassockfield in County Durham
- Rainsbrook in Northamptonshire
- Medway in Kent.

(iii) Young Offender Institutions

YOIs are run either by the Prison Service or by the private sector, and can accommodate 15 to 21 year olds. The YJB commissions and purchases the places for under-18s (i.e. 15 to 17 year old boys and 17 year old girls), who are held in units that are completely separate from those for 18 to 21 year olds. About 81% of young people in custody are held in YOIs. YOIs have lower ratios of staff to young people than STCs and secure children's homes, and accommodate larger numbers of young people.

In 2006/7, the last year for published population data, there were an average of 2,914 young people under 18 in custody; of those 226 (7.7%) were in Secure Children's Homes, 257 (8.9%) were in Secure Training Centres and 2,431 (83.4%) were in Young Offender Institutions. Of the total 2,704 were male and 211 female.

IV. YOUTH OFFENDING IN ENGLAND AND WALES

There are about 4.7 million young people between 10 and 17 in England and Wales. Of those about 130,000 committed an offence dealt with by the courts; in all there were nearly 300,000 offences in 2006/7. Of these, 236,000 were committed by boys and 60,000 by girls. The most common offences were theft and violence against the person (both 56,000), criminal damage (41,000) and motoring offences (37,000). Other notable offences are drugs (12,000) robbery (7,000) burglary (5,700) and sexual offences (1,800).

Public attitudes towards offending by young people have been characterized by a growing intolerance towards quality of life crimes leading to the use of Anti-Social Behaviour Orders, and concern about increasing evidence of gangs and serious violent crime, particularly knife and gun crime where the victims are other young people.

V. INTERNATIONAL COMPARISONS

The YJB have recently published a study of youth justice systems across different jurisdictions. It is explicitly aimed at influencing policy in England and Wales. The paper 'Cross-national comparison of youth

justice' by Neal Hazel of the University of Salford looks at the different models of youth justice. Drawing on a topology developed by Cavadino and Dignan, Hazel describes the England and Wales system as being Neo-correctionalist, characterized by stressing the responsibility of parents and children, the need for early intervention and prevention, a focus on victims and on the need for effectiveness in treatment. This is contrasted with the Welfare models of Europe and Japan and the Justice models of the US. Hazel also notes a gap between the views of policy makers in England and Wales and those of the public and politicians who remain wedded to a Justice model.

Hazel also reviews attempts to compare juvenile prison populations by collecting data from each jurisdiction. However, it is clear that any such comparison is fraught with difficulties as each jurisdiction uses different definitions around age and crucially what constitutes custody. It is clear that some countries use reform schools which young people cannot leave at will but which aren't considered custody. On any count though it is clear that England and Wales has a particularly high population of young people in custody at 46 per 100,000 compared to an average in Western Europe of around 17 per 100,000, though the figure for the US remains much higher at 336 per 100,000.

VI. HER MAJESTY'S PRISON SERVICE FOR ENGLAND AND WALES

HM Prison Service is managed as part of the National Offender Management Service. NOMS is responsible for delivering Prison and Probation Services in England and Wales. The Prison Service has always been responsible for delivering custodial sentences for offenders 15 and over. Since 2000 all 15–17 year olds held in prison have been held in dedicated prisons for young people. Two YOIs are run by private companies: Ashfield near Bristol and Parc in Wales. There are fourteen YOIs for young people run by the public sector; four are small separate units for 17 year old girls within larger prisons for women at Eastwood Park near Bristol, New Hall near Wakefield, Foston Hall near Nottingham and Downview near London. There are four YOIs holding only young men aged 15–18: Wetherby near Leeds, Huntercombe near Reading, Warren Hill near Ipswich and Werrington near Stoke. The remaining places holding young men do so in separate units within prisons that also hold young adults aged 18–21; they are Stoke Heath and Brinsford near Wolvehampton, Castington near Newcastle, Feltham in London, Hindley near Manchester and Lancaster Farms in the North West.

A. Management Arrangements and the Role of the Women and Young People's Group

The YOIs in the public sector are managed within regional structures by Area Managers for Prisons, who deliver against the Service Level Agreement with the YJB. Area Managers and Governors are supported by the Women and Young People's Group. The relative roles and responsibilities are set out in the SLA which states the following.

1. The Roles and Responsibilities of Governors

The Governors are to operate safe and secure establishments, operating within all relevant PSOs, PSIs and YOI rules including specifically PSO4950, reflecting service standards and actions set out within continuous improvement delivery plans, whilst focused on reducing offending; provide the places prescribed in the SLA at paragraph 4.10; provide reliable data, facilitate visits, communicate appropriately, provide access to records and utilize support available from W&YPG; continue to operate an open and transparent relationship with the YJB – providing reliable data, facilitating monitoring visits and providing access to records, and communicating appropriately with the YJB SLA Management Team; seek to continuously improve delivery against YJB Outcomes; and report progress against the Continuous Improvement Delivery Plan.

2. The Roles and Responsibilities of Area Managers

The Area Managers are to ensure that establishments' continuous improvement delivery plans are realistic, challenging but achievable and deliver the YJB Outcomes; sign off the Action Plans requested by the Performance and Development Board; hold Governors accountable for delivery; operate an effective working relationship with W&YPG utilizing the support they can provide to the Area Team; ensure establishments are appropriately resourced and supported to deliver effectively; and act as a point of escalation for issues relating to establishments in their area.

3. The Roles and Responsibilities of the Women and Young People's Group

The Women and Young People's Group is to represent the Prison Service in taking the lead in the

negotiation of the SLA with the YJB; on behalf of the Deputy Director General, ensure that the Prison Service meets commitments in the SLA; advise and support establishments and Area Offices to improve delivery; understand the performance of establishments and their ability to develop further; provide support and guidance to establishments and Area Managers on the development of Continuous Improvement Delivery Plans that meet YJB Outcomes; deploy resources to support establishments and Area Offices as appropriate, providing a specialist resource on operational issues at young people's establishments; facilitate meetings between the YJB SLA Management Team, YJB Commissioning Team and Area Managers when required by any party within a reasonable timescale; ensure the timely delivery of all Continuous Improvement Delivery Plans to the YJB; ensure all establishments are in possession of an up-to-date version of the Delivery manual; work towards ensuring resources are distributed across sites to enable maximum delivery against YJB outcomes and provide visibility on this distribution. This will be achieved by developing activity analysis for YJB funded establishments within the scope of Prison Service policies and initiatives; using the information as the base for the 2010/11 budgets of all YJB commissioned establishments; facilitate and support the YJB in relation to agreed development in the secure estate and operationalize new policy for the Prison Service across the YJB commissioned places; support implementation of projects agreed in the workplan providing dedicated project support and expert advice relating to young people held in custody; engage as appropriate with the YJB Placement and Casework Service, to ensure delivery against the Allocations Strategy; and the Head of W&YPG has final authority within the Prison Service with regard to the allocation of young people to prison places.

VII. AIMS OF IMPRISONMENT

Section 47 of the Prison Act 1952 provides that the Secretary of State may make rules for the regulation and management of prisons and YOIs (and STCs) and for the classification, treatment, employment, discipline and control of persons required to be detained in those establishments. The regimes which the prison service provides to young people are accordingly governed by the Young Offender Institution Rules 2000 and the Prison Rules 1999 (both sets of Rules having last been amended in 2005). The YOI Rules apply to sentenced young people and the Prison Rules to those held on remand.

The detail of the regimes which establishments in the prison service young people's estate are required to provide, as agreed with the YJB, is set out in Prison Service Order 4950 (which is incorporated in the SLA between the prison service and the YJB). PSOs do not have the force of law, but the courts will expect establishments to follow the policies contained in them unless they can show good reason for not doing so.

The regimes are built upon the evidence-based research into 'what works' with offenders and upon effective practices established for young people, male and female, within the young people's secure estate and the community as set out in the YJB's Key Elements of Effective Practice.

Key features of the PSO 4950 regimes are:

- A child centred approach reflecting responsibilities under the Children Acts 1989 and 2004;
- A special emphasis on safeguarding the provision of a safe environment for all young people at all times;
- Special attention to every young person's physical, mental and social health, including the promotion of healthy lifestyles;

and, more particularly:

- Screening on day of arrival to ensure all immediate healthcare and other needs are identified and provided for;
- Provision of an induction programme including information materials about the establishment and sources of help and advice;
- Sentence plans - based on each young person's needs and regularly reviewed and updated – which set realistic objectives for the young person and help prepare them for their return to the community;
- An intense early focus on assessing a learner's needs, formulating those into an individual learning plan and ensuring those needs are delivered through a specification - the *Offender's Learning Journey* – which the teaching contractors are required to deliver;

- A range of offending behaviour programmes which reflect the diversity and individuality of the young people as well as their educational abilities. [See section on JET below];
- A child appropriate approach to behaviour management with greater focus on interventions to address the causes of the young person's poor behaviour and to help them towards a more positive attitude;
- Rewards and sanctions schemes designed specifically for young people and offering realistic and motivating incentives which nurture and reward good behaviour;
- An independent Advocacy Service aimed at providing a useful additional source of help and advice.

VIII. SAFE AND DECENT PRISONS

At the heart of what of HMPS do is recognition of the privilege of potentially being able to make a positive change and impact on the life chances of children and young people whose lives, experience, and behaviour are characterized by difficulty, disruption and social exclusion.

The almost 3,000 15-18yr old young people HMPS looks after are legally children. This is a huge responsibility, and it's vital that staff have the trust of the young people themselves, their parents/carers, other responsible agencies like children's social care, as well as the trust of the commissioning authority the YJB, and the general public.

A typical young person in the care of the Prison Service is likely to have experienced multiple disruption and difficulty. Up to a half may have been in care, most are likely to have significantly disrupted education or be excluded from school. Many are likely to be facing unmet resettlement needs on release such as suitable accommodation.

A. Feeling Safe

The starting point for engendering this trust has to be delivering an environment where the young people and staff feel safe. This a priority for HMPS and the YJB who have invested in a dedicated safeguarding programme integrating child protection, suicide prevention, self harm management and violence reduction policy and practice and, provided dedicated senior safeguarding managers, training, young people's advocacy programme and capital works improvements. Effective working partnerships with local authorities and YOTs are seen as vital to secure positive outcomes.

Establishments aim to respond appropriately (firmly where necessary) and consistently to the behaviour of young people, and need to take forward a joint YJB programme to develop young people specific strategies such as guidance for adjudications, and look at the use of separation with young people, and how to adopt "time out/calm down" type approaches that might provide a more instant management response. Establishments are also piloting restorative justice approaches.

B. Code of Practice on Behaviour Management

YOIs are working to the YJB Code of Practice on Behaviour Management which includes the approaches outlined below.

1. Management Responsibilities

It is important to place behaviour management within a framework of overall management responsibility. The senior managers of each establishment are responsible for leading the approach to managing behaviour; and in particular, they must:

- demonstrate a commitment to a child-centred culture that encourages a calm, ordered, and respectful living environment (which therefore promotes self-control);
- ensure that every relevant member of staff receives appropriate training for all aspects of managing behaviour;
- ensure that monitoring systems are in place to identify the extent of compliance with the Code;
- ensure that lessons learned from monitoring information and from incident analysis are used to inform and improve the development of effective practice within their establishment.

2. An Acceptable Behaviour Statement

The establishment must have a clear, widely distributed statement, written in child-friendly language, about what behaviour is acceptable and unacceptable.

This statement must be made available to the young person as part of the induction process, and be continually referenced (for example, through personal officer/key worker relationships and during care planning meetings). Information about the consequences of unacceptable behaviour must be made clear (see section 3 below).

3. A Coherent and Fair System of Rewards and Sanctions

The establishment must have a clear, widely distributed statement, written in child friendly language, about the rewards and sanctions that are used, and the kind of circumstances in which they are deployed. Restorative justice principles should be at the heart of the system. This statement must be made available to the young person during the induction process, and be continually referenced (for example, through personal officer/key worker relationships and during care planning meetings).

4. A Planned Approach to Managing Individual Behaviour

Behaviour management must be specifically covered in care and sentence planning processes. Triggers to unacceptable behaviours, and tactics for avoiding or defusing them should be identified in the planning process, in consultation with the child or young person. A child or young person who is assessed to need it must have a tailored behaviour management plan in place, which is formulated at planning meetings, and in consultation with the child or young person, his or her parents/carers, and relevant professionals. Behaviour management plans must be reviewed at each planning meeting. Parents/carers and relevant professionals must be kept informed of behavioural problems and achievements.

5. Processes for Consulting with Children and Young People

The establishment must demonstrate a commitment to consulting with children and young people about issues that affect them, and provide information about the processes that are in place to support this commitment.

6. A Complaints Procedure

The establishment must demonstrate that it has an effective complaints procedure. Information on the procedure, written in child-friendly language, must be provided to children and young people, and followed up by explanations from staff during their induction. Children and young people must have access to an independent advocacy service to support them through the complaints procedure. There must be a staged or tiered procedure for resolving complaints. The initial stages of the procedure must seek to resolve complaints locally, informally and swiftly.

Restorative justice principles must be used in resolving complaints wherever possible. There must be clear signposts, where necessary, linking complaints by a child or young person to child protection procedures. The establishment must have a monitoring system in place to review the operation of the complaints procedure, both in terms of the nature of the complaints made and their outcome, from the child or young person's perspective, and at an individual and an aggregate level.

7. An Independent Advocacy Service

The establishment must ensure that children and young people have access to an advocacy service that is:

- child/young person-led;
- independent of the establishment;
- confidential (within the limits of child protection and security requirements).

8. Diversion, De-escalation and Defusing Processes

The policies of the establishment must emphasize de-escalation, and defusing potentially violent or conflict situations. Restorative justice principles should be used where possible to help de-escalate and defuse conflict. This approach must be reflected in the establishment's training strategy.

9. Removal from Normal Location

Removing children and young people from their normal location and separating them from their peers is a procedure used throughout the secure estate to assist in the management of certain types of behaviour. Although the language and some practical aspects of the process differ according to the type of establishment, the following principles must underpin the process wherever it takes place.

The decision to remove a child or young person because of problematic behaviour must be made only on the basis of an assessment that:

- the continued presence of the child or young person in the normal location threatens the good order of the establishment; or
- the child or young person will benefit from a period of separation to assist him or her in bringing his or her behaviour under control.

The decision to remove the child or young person must be taken by a senior member of staff. It must not be used as a punishment. The reasons for the decision must be made clear to the child or young person. Every effort must be made to assist the child or young person in addressing the behaviour that led to the removal, so that he or she may be restored to the normal location as soon as possible. While the child or young person is separated, he or she must continue to have access to regime activities, particularly education. The separation arrangement must be reviewed frequently to ensure that it is still justified. When the period of separation is over, the child or young person must be given the opportunity to debrief with a suitable member of staff.

10. A System for Restrictive Physical Intervention

Only staff who are properly trained and competent to use restrictive physical interventions should undertake them. Restrictive physical interventions must only be used as the result of a risk assessment. They must be mindful of the particular needs and circumstances of the child or young person being restrained (for example, medical conditions or pregnancy). Restrictive physical interventions must not be used as a punishment, or merely to secure compliance with staff instructions. Any intervention must be in compliance with the relevant rules and regulations for the establishment, and carried out in accordance with methods in which the member of staff has received training. Restrictive physical interventions must only be used as a last resort, when there is no alternative available or other options have been exhausted. Methods of restrictive physical intervention that cause deliberate pain must only be used in exceptional circumstances. Restrictive physical interventions must be carried out with the minimum force, and for the shortest possible period of time.

The degree of physical intervention must be proportionate to the assessed risk. Every effort must be made to ensure that other staff are present before the intervention occurs. Medication must only be used for treatment of a medical condition, and not as a means of control. After the intervention, the child or young person must have the opportunity to debrief with a suitable member of staff, with the support of an advocate if requested. A medical examination must be arranged immediately if there is any evidence of injury, or if the child or young person complains of discomfort or pain, or requests it. There must be clear policy links between restrictive physical interventions and child protection procedures (i.e. there must be signposts to the need for a child protection referral if a child or young person is injured, or complains about the intervention).

Staff must have the opportunity to debrief with their manager. Family/carers and appropriate professionals must be informed of the intervention. A monitoring system must be in place to record individual incidents in a way that allows them to be aggregated over time to give a total picture of the use of restrictive physical interventions in each establishment. The establishment must prepare an annual report, which evaluates practice in the area of restrictive physical interventions for the previous year. The establishment must have processes in place to ensure that practice is informed and developed by the debriefing and monitoring information.

IX. INTERVENTIONS TO REDUCE REOFFENDING

The interventions in YOIs are built around the needs of young people. Primarily these are exclusion from mainstream education through social exclusion or through behaviour management that results in a low level of educational attainment that in turn means young offenders are excluded from employment opportunities; substance misuse; and cognitive behaviour deficits. So the primary interventions are a focus on education a substance misuse service and cognitive skills courses.

A. Education

The YJB have prioritized education funding for young people in custody, providing 15 hours of structured education within an overall programme of 30 hours' activity that includes physical education, some vocational work and other interventions. The main emphasis of the education provision is on basic skills in literacy and numeracy, with a target to raise attainment levels by one level on the national framework during the period in custody. Education is provided in small groups of about 8 young people with a teacher and teaching assistant in each class.

B. Substance Misuse Service

Drug Services in HM Prisons were put in place in 1998 and were a structured approach to what was essentially a concern about problematic class A drug use. The approach was very adult focused and it did not include interventions on alcohol, solvents or nicotine.

At that time only 20% of young people accessed Prison Drug Services. A more child orientated approach was pioneered within the North West Prison Area between 2000 and 2003. Following the success of this work, the YJB have invested about £4million per year for a dedicated substance misuse service for young people.

The Young People's Substance Misuse Service (YPSMS) team are in all Prisons - one worker per 30 young people (i.e. Wetherby has 12 workers). All young people have an initial assessment and all receive substance misuse awareness. Those assessed as appropriate are offered one-to-one work and group work.

The main substances covered are alcohol and cannabis – these accounts for 90% of assessed need. Less than 2% of YP are assessed as needing in-patient detoxification from heroin/benzodiazepine/alcohol; most of those that do are females.

The service links closely to community services in terms of continuity of care.

C. Juvenile Enhanced Thinking Skills (JETS)

The JETS Living Skills programme is a cognitive behavioural programme, based on principles of cognitive behaviour theory. It aims to teach younger offenders how to behave and think in more pro-social ways by changing maladaptive thinking patterns, and providing opportunities for practising new more effective ways of thinking and behaving. It aims to equip them with a range of skills that will enhance their abilities to behave in pro-social ways and interact more effectively with other people e.g. skills in self control, perspective-taking, problem solving and reflective thinking. The programme contributes directly to the principal aim of the youth justice system - to prevent offending by young people.

The programme evolved from evaluating existing interventions and looking at what facilitators and Treatment Managers felt were effective methods with this age group. The aim was to ensure that exercises were exciting, practical and easily accessible to the young people.

The value of the programme is in the potential it has to impact as a core effective regime activity. It adheres to the YJB's 'Key Elements of Effective Practice' criteria for offending behaviour programmes but also, because it takes a holistic and integrated approach, it is designed to fit into the existing regime and resettlement structures.

The programme has been written specifically for the 15-17 age group. It is targeted at males (though it could be easily developed further to make it more responsive to females) who have a medium to high risk of reoffending, who are motivated sufficiently to participate in the programme and who have the offence related

needs in terms of cognitive deficits but who do not have current mental illness, or significant language barriers that would prevent participation.

The programme consists of 25 sessions. The formal group work sessions amount to approximately 48 hours but in addition to this there are a further 7 hours of individual support, and a further 25 hours of homework assignments involving practise of skills. This amounts to a total of 80 hours' treatment work.

D. Sex Offenders

For adult sex offenders HMPS deliver the Sex Offender Treatment Programme in group sessions. The nature of this programme and the particular vulnerabilities of young people mean that SOTP is not appropriate for under 18s. Where there is a clear need for intervention that cannot wait for the offender to complete SOTP as an adult due to sentence length there is a programme of one-to-one work which is provided in partnership with The Lucy Faithfull Trust, a charity specializing in working to prevent the sexual abuse of children.

X. OFFENDER MANAGEMENT AND RESETTLEMENT

Responsibility for young people serving DTOs rests with the local Youth Offending Team. YOTs work with YOIs to ensure effective Offender Management during and following the period in custody. A common Offender Management tool - Asset - is used and increasingly this is provided through an I.T. solution that is being rolled out under a strategy for 'wiring up Youth Justice'. The emphasis of offender management is on responding to identified need both in terms of vulnerability and the reasons for offending. The YOT case holder attends case conferences in custody, helping to prioritize work to address offending while in prison and planning for a successful resettlement on the return to the community when the same YOT worker will be the lead professional providing supervision.

XI. FUTURE DEVELOPMENTS

The Prison Service continues to work with its commissioner, the YJB, to develop the services provided. The SLA sets out a comprehensive action plan for 2008/9 which prioritizes further developing the Behaviour Management Framework, a Workforce Development Plan that aims to increase the specialization and professional skill base of staff, and a move to rationalize the young people's estate and begin a strategic move towards dedicated sites. These developments will need to be made within the context of changing attitudes, and a reduced tolerance, to youth offending. There are early signs of a loss of confidence in the YJB, both from those who promote a welfare approach, and also from those who advocate a more punitive approach. It will be important to be able to demonstrate success in the system to continue the programme of work undertaken over the last decade. The UK is also entering the part of the political cycle that usually marks a shift to more punitive criminal justice policies.

XII. CONCLUDING REMARKS

This paper has set out the legislative administrative and political context for the Youth Justice System in England and Wales with a particular emphasis on the role of the Public Sector Prison Service. It has looked at research on international comparisons, at the causes of Youth Offending and at the preventive work done in the community before looking at the regimes in place and the treatment interventions offered within custody. It concluded with some thoughts on future developments.