



**INCLUDE YOUTH RESPONSE TO THE AGREEMENT
AT HILLSBOROUGH CASTLE 5TH FEBRUARY 2010**

“people don’t know the lives we lead, the problems a lot of us have.”

MARCH 2010

Introduction

Include Youth promotes best practice with young people in need or at risk. We achieve this through the development and promotion of resources, the provision of training, information and support of practitioners and organisations. We also undertake activities aimed at influencing public policy and policy awareness – both locally and nationally.

Amongst the young people at risk with whom, and on whose behalf, Include Youth works are young people from socially disadvantaged areas, those with a learning disability, those with special needs, those who have been truanting, suspended or expelled from school, those from a care background, those who had a negative parenting experience, young people who have committed or are at risk of committing crime, misusing drugs or alcohol, undertaking unsafe sexual behaviour or other harmful activities, or of being harmed themselves.

The Give and Take Scheme aims to improve the employability and increase the self esteem of young people in need or at risk from across Northern Ireland. The Scheme works with approximately 135 young people from a care or criminal justice background. The Scheme aims to support young people to overcome particular barriers that prevent them from moving into mainstream training or employment and towards independent living. 75% of people on the Scheme are care experienced and we have strong partnership with all Trusts, YJA, PBNI and Careers service. The Scheme provides essential skills training (ICT, English and maths) to all of the young people.

Include Youth manages the LACE (Looked After Children in Education) Project which is a multi-agency partnership with the aim of promoting better educational outcomes for children and young people in care.

In addition, Include Youth a Practitioners Forum, which draws together professionals from a range of statutory, voluntary and community organisations working directly with young people in need or at risk.

Include Youth's Young Voices project is a way of delivering participative democracy to marginalised young people in Northern Ireland. Its main aim is to support young people at risk or with experience of the criminal justice system, as well as young people marginalised for a variety of reasons, to become involved in decision making processes which impact on their lives, particularly in social welfare, education and criminal justice matters. The project works with a range of groups of young people in the community and both juvenile and youth custody facilities in Northern Ireland.

General Comments

Include Youth welcomes the opportunity to respond to the Hillsborough Agreement. We welcome the commitment of the First and Deputy First Minister to work together in a spirit of partnership to deliver success for the entire community and agree that central to this is the foundation of partnership, mutual respect and equality. We look

forward to a time when we can engage fully with the detail of the outworking of this agreement and contribute to the programme of a Ministry for Justice.

Unless otherwise stated all quotes are directly from young people that Include Youth works with.

Specific Comments

Section 1 – Policing and Justice

The Department of Justice Model

Include Youth fully supports the establishment of a Department of Justice and the appointment of a single Justice Minister responsible for relevant policing and justice policy, legislation and provision.

Addendum to Programme for Government

We fully support the proposal that the addendum to the Programme for Government (PfG) for the Department of Justice should be drafted in such a way that it becomes a seamless fit into the current PfG.

We note the suggestion that ‘some of the work of existing departments touch upon the proposed functions of a new Department of Justice’. We would concur that much of the work of the new Department will cut across the work of other departments and it is critical that the addendum is written in a collaborative and co-ordinated way. We would welcome a stronger commitment within the agreement to the vital importance of forming working links between other critical departments, such as OFMDFM, DSD, DHSSPS, DE and DEL. This is particularly important given the emphasis within the Agreement on the need to learn from international best practice, a proposed review of alternatives to custody, the adequate provision of diversionary alternatives to prosecution, a review of the conditions of detention, the development of a comprehensive strategy for the management of offenders and a review of how children and young people are processed at all stages of the criminal justice system.

‘I used to wait for my Da, like, and he’d take off on us for nothing ... belt, fists, anything he could use. I was bullied all through my childhood. There were always fights in the house, like. And then I got it at school. You were going through enough at home, you didn’t expect it in school, like. Then it was on the street with the peelers. You’ve got the attitude problem. You feel like a hurt animal, just waiting to be released.’

None of these elements can be progressed on effectively without the involvement, co-operation, resourcing and commitment of other government departments. We would also stress the need for the addendum to take account of commitments made under ‘Our Children and Young People – Our Pledge: A ten year strategy for children and young people in NI 2006- 2016’ (OFMDFM). The outcomes identified in the ten year strategy apply to all children and young people, including those in conflict with the law. We believe that the full realisation of this strategy has the potential to significantly reduce the numbers of children becoming involved in crime and anti-social behaviour. Include Youth’s Justice Manifesto and Background Paper outline in

detail the relevant plans of action for each government department, highlighting what aspects of each department's work is relevant to the development of an effective youth justice system (Include Youth, 2008, 2009).

Suggested necessary actions to support the agreed policies

Learning from international best practice in matters of criminal justice

Include Youth fully support the importance of learning from international best practice in matters of criminal justice. We would draw attention to the need to reference and take cognisance of relevant international human rights standards including the UNCRC (Article 37, 40), the Riyadh Guidelines, the Tokyo Rules, the Havana Rules and the Beijing Rules. The UN Committee on the Rights of the Child made a significant number of recommendations relevant to the youth justice system and we would recommend that these are taken as a starting point for any debate in relation to children and young people in conflict with the law (UN Committee on the Rights of the Child, 2008).

Review of alternatives to custody /Adequate provision of diversionary alternatives prosecution

We support a review of alternatives to custody and believe that too many children are imprisoned in NI. Include Youth promotes effective alternatives to custody and reaffirms the international standard that custody should only be used as a last resort.

The Include Youth Manifesto (2009) is rooted in international human rights standards and children's rights standards that provide protection for all children. Rights compliant youth justice system should promote and guarantee:

- generic early intervention and provision of universal services to ensure that children fulfil their potential, families are supported and the best interests of the child are paramount, regardless of age;
- service provision that is preventative, steering children away from behaviour that may lead to offending;
- service provision that is diversionary, securing creative and realistic community based alternatives to criminal justice;
- the best interests of all children and young people.

Additionally the Background to the Manifesto(2009) makes it quite clear that the prevention and diversion of young people from crime and anti-social behaviour often has little to do with the justice system but is also the responsibility of family support services, mental health services and education, training and employment services, to name but a few. We hope that the devolution of policing and justice and an integrated programme for government will begin to formalise this responsibility.

If we are to see a reduction in the use of custody it is essential that we understand the complexities of young people's lives and support the development of early intervention measures. This requires cross departmental working and a commitment to an early intervention approach. This approach, targeted at promoting the well-being of all children will subsequently minimise the necessity for intervention by the criminal justice system. It is our firm belief that children in conflict with the law

should be defined as ‘children in need’ and the responsibility of children’s services (eg. education, health, social care).

We remain concerned that custody is too often used as a means to place a child in an institution due to inadequate community based services. This has been confirmed by an inspection of Woodlands Juvenile Justice Centre in 2007 which raised concern that:

“many of the children whom Inspectors met were neither serious nor persistent offenders. They were troubled children whose JJC placements often resulted from benign intent on the part of courts or police. When unsure how to deal with them, they were placed in custody as much for their own safety as in response to their offending behaviour. Such placements breach international safeguards, and inappropriate use of custody for children remains a more pronounced problem in Northern Ireland than elsewhere in the UK” (CJINI, 2008: 4).

The experience of custody can be extremely damaging for young people and it is essential that the proposed Department of Justice addresses alternatives to custody in a holistic and long term way alongside colleagues in other relevant government departments, the voluntary sector and local communities.

The emphasis should be on care, protection and diversion from the criminal justice system through providing support to children and their families to help them access the services they require and develop strategies to deal with their circumstances. The formal youth justice system should only be utilised when all alternatives have been exhausted.

Include Youth supports community based disposal measures which are run by local communities and use models of restorative justice. These models which are centred on strengthening and supporting families are more likely to ensure prevention of offending than the use of custody.

“what we need is a bit of support and understanding – what we get told is we’re bad and end up on the receiving end of police and paramilitaries.”

“I think my Ma needs a lot of help. She sits in the house worried about me every day. She needs someone, she needs help.”

Include Youth fully supports the principles and ethos of restorative justice, and diversionary measures which seek to steer children and young people away from the criminal justice system. We believe that there is a positive role for Community-based Restorative Justice (CBRJ) in Northern Ireland within this process. Include Youth strongly believes that, all interventions, whether statutory, voluntary or community based, must be fully compliant with domestic and international human rights and children’s rights standards.

The powers of the Prisoner Ombudsman to be reviewed

We fully support a review and strengthening of the powers of the Prisoner Ombudsman.

A review of the conditions of detention, management and oversight of all prisons

We strongly support a review of the conditions of detention, management and oversight of all prisons. Include Youth has considerable evidence from young people with regards to the poor quality of care and services to young people in Hydebank Wood YOC - evidence that is replicated in inspections from CJINI and the Independent Monitoring Board.

We continue to have major concerns about the welfare of 17 year olds held in Hydebank Wood YOC and believe that all young people under the age of 18 should be removed from this facility as a matter of urgency.

The Chief Inspector of prisons and the Chief Inspector of Criminal Justice in NI unannounced inspection of Hydebank Wood YOC in November 2007 highlighted a plethora of concerns, many of which Include Youth believes have yet to be addressed adequately (CJINI, 2008). These concerns were repeated in the Independent Monitoring Board's 2007/2008 Annual Report into Hydebank Wood Prison and YOC (IMB, 2009). Aside from separate accommodation, there is no difference between the regime for 17 year olds as for the young adults – with no “apparent” policy governing the management of children.

“it's because we're nobodys, because they don't care about us on the outside, we're nothing, we don't matter.”

“Security – how do they expect you to change when all they do is lock you up? You need help with a job, teach you how to do job interviews, training for it. If you got out and you got a job, you wouldn't want to lose it, you'd try hard not to lose it, so you wouldn't get into any trouble. Plus, you'd have no time to re-offend.”

“It makes you worse in here – the government should know what it does to you.”

In response to the publication of the Independent Monitoring Board's report Include Youth carried out a number of consultations with young people in Hydebank Young Offenders Centre. Include Youth were keen to gain a young persons perspective of the YOC and therefore we worked with young people on the juvenile landing between April and July 2009 (Include Youth, 2009). It is clear from the young people's comments that there remains much room for improvement in practice within Hydebank Young Offenders Centre. Based on what we have heard from the juveniles held in the YOC in 2009 we would urgently call for the recommendation of the UN Committee on the Rights of the Child (with regards to article 37) in September 2008 that the government should “ensure that, unless in his or her best interests, every child deprived of their liberty is separated from adults in all places of deprivation of liberty” to be implemented forthwith. We would welcome a statement of intent to remove 17 year olds from Hydebank Wood from any future Minister for Justice.

A comprehensive strategy for the management of offenders

We support the development of a comprehensive strategy for the management of offenders.

Consideration of a women's prison

We support the development of a women's prison, which is fit for purpose and meets international obligations and best practice. However we believe that this can only be achieved within the context of the implementation of best practice with regards to women who offend and that full cognisance must be taken of the recommendations of the Corston Report (Corston 2007).

Review of how children and young people are processed at all stages of the criminal justice system, including detention, to ensure compliance with international obligations and best practice.

Include Youth are delighted at the proposal for a review of how children and young people are processed in all stages of the criminal justice system. Ensuring the implementation of international standards for young people in custody in NI should be treated as a matter of urgency. In 2002, the UN Committee on the Rights of the Child recommended that the UK government:

“take all necessary measures, as a matter of urgency, to review the conditions of detention and ensure that all children deprived of their liberty have statutory rights to education, health and child protection, equal to those of other children” (UNCRC Committee, 2002).

These recommendations were repeated again in the 2008 recommendations from the UNCRC (UNCRC 2008).

Include Youth recommends that the proposed review should assess the implementation of the following fundamental children's rights protections:

- The incorporation of the best interests of the child principle in all stages of the administration of juvenile justice in line with the Beijing Rules and the UNCRC.
- The requirement for sentencing and legislative practice to be compatible with international children's rights standards outlined in the Beijing Rules, the Tokyo Rules and the UNCRC.
- The principle of detention as measure of last resort and for the shortest appropriate period of time, which is a fundamental principle set out in the UN Rules for the Treatment of Juveniles Deprived of their Liberty and Article 37(b) UNCRC.
- The requirement / commitment to develop alternatives to custody and institutional care for children, in line with both Article 40 UNCRC and the Beijing Rules.
- the requirement that 'every child deprived of liberty shall be treated with humanity and respect for the inherent dignity of the human person, and in a manner which takes into account the needs of persons of his or her age' in line with Article 37 (c) and 40 UNCRC.
- The requirement that children be separated from adults in detention as required by Article 37(c) UNCRC and the International Covenant on Civil and Political Rights.
- The recommendation to abolish the incarceration of children in adult prisons made by the UN Committee on the Rights of the Child (UN Committee on the Rights of the Child, 2002,2008).
- The requirement that if children are (exceptionally) held in prison for adults, there should be special regulations that take account of their status and needs in line with the Beijing Rules and the European Prison Rules.
- The recommendation to increase the age of criminal responsibility, in line with recommendations contained within international standards (Beijing Rules, UN

Committee on the Rights of the Child, 2002 and 2008). Include Youth recommends 16.

- The requirement to address the representation of young people and in particular of those young people in conflict with the law. In 2003, Children’s Ombudspersons in 21 European states recorded that they were “very concerned at the tone of political and media debate and the direction of public policy and legal changes concerning juvenile offenders in many of our countries” (ENOC, 2003:1). Following its recent examination of the UK Government, the UN Committee on the Rights of the Child recommended that the Government take “urgent measures to address the intolerance and inappropriate characterisation of children, especially adolescents, within the society, including the media”. This reinforces the need to challenge negative stereotypes and assumptions about young people, and the recommendation that the mass media “should be encouraged to portray the positive contribution of young persons to society” (Riyadh Guidelines, 1990).
- The recommendation that all professionals working with children and young people should be aware of and receive training about the UNCRC and children’s rights (Articles 4 and 42, UNCRC) and should be trained to respond to the special needs of children in line with the Beijing Rules, the Riyadh Guidelines and the European Prison Rules.
- The requirement to ensure that all children have a right to participate in a meaningful way in accordance with their age and maturity, pursuant to Article 12 of the UNCRC and Section 75 of the NI Act 1998. A system which deal with children in conflict with the law and which is compliant with the best interest principle, should promote and facilitate meaningful participation of all groups of children / young people – in legislation or policy development and review; service planning, implementation and review; decision-making processes in state institutions.

As professionals working closely with young people in the criminal justice system we know that children are not currently treated in a manner that pays due regard to their age, understanding and needs and they are not being helped to reintegrate into society.

This proposed review of how children and young people are processed at all stages of the criminal justice system is an essential element of the Hillsborough Agreement. We very much welcome the inclusion of such a review in the document and as our evidence suggests it must be addressed as a matter of urgency by the proposed Department of Justice.

A thorough review of how children are treated by the system from first arrest is essential to ensure that young people are diverted from harmful activities at the earliest possible stage – ensuring in the safety of all in Northern Ireland.

Concluding Comments

Include Youth welcomes the opportunity to respond to the content of the Hillsborough Agreement and we look forward to engaging with the further stages of development in any way that we can. We have a plethora of evidence from young people, practitioners and research and international standards that we would be very happy to share with government as and when required.

We are very positive about many aspects of the agreement and in particular welcome the proposals for a review of alternatives to custody and adequate provision of diversionary alternatives to prosecution as well as the review of how children and young people are treated in the criminal justice system. If they come to fruition and are resourced adequately with a secured cross departmental commitment, these aspects of the agreement have the potential to improve the lives of many children and young people in Northern Ireland.

“If I’d had one person to help me when I was younger it would have changed it all – if I had’ve learnt to read or write better I wouldn’t be in this situation now, wouldn’t be here in jail.”

Include Youth

March 2010

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