



**Written Submission to the Northern Ireland Assembly and  
Executive Review Committee Inquiry into the Devolution of  
Policing and Justice Matters**

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**August 2007**

## **Introduction**

- 1.** 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 public awareness - locally and nationally.
- 2.** Include Youth promotes the development of positive choices and opportunities for vulnerable and challenging young people in the community, residential care or custody. Include Youth promotes the use of community alternatives to care and custody for children and young people.
- 3.** Amongst the young people at risk with whom, and on whose behalf, Include Youth works are young people from socially disadvantaged areas, those who have been truanting, suspended or expelled from school, those from a care background, 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.
- 4.** Include Youth runs the Young Voices project, which is a participation project for young people who have had experience of the criminal justice system, with the aim of supporting these young people to become involved in decision-making processes which impact upon their lives. Currently the Young Voices project supports young people in two groups – one drawing its members from the Greater Belfast area, and the second based in the Juvenile Justice Centre, Bangor.
- 5.** In addition, Include Youth runs the YOYO 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, and meets on a quarterly basis.

## **General Comments**

- 6.** Include Youth very much welcomes the opportunity to make written submissions to the Inquiry into the Devolution of Policing and Justice Matters. Include Youth has a considerable track record of over 28 years working closely with all the relevant systems which engage with children at risk and in need. We have a sound understanding of child welfare, education and youth justice law, policy, practice and service delivery in Northern Ireland. We have a dedicated policy / advocacy role where we work to address all relevant issues concerning children and young people in conflict with the law. This work is informed by our work with young people, with practitioners as well as relevant human rights instruments and best practice evidence. As an organisation working to make children's rights a reality in the most challenging of circumstances Include Youth is committed to working in partnership with all stakeholders in all settings.

7. Include Youth wishes to outline a number of general points in relation to the terms of reference. However, our submission focuses mainly on policing and justice matters and their impact on children and young people. We believe this Inquiry provides the Committee members with the opportunity to engage with the debate concerning children and young people at risk, particularly those in conflict with the law, in a positive and progressive way. This engagement should have significant positive impact on the lives of children, their families, the communities within which they live, together with the wider society.

#### **Include Youth's Vision for Youth Justice**

8. Include Youth is currently working on producing a Vision for Youth Justice in Northern Ireland. Our intention is to provide a Framework for the development of a system for dealing with children in conflict with the law that is practical, realistic, achievable and children's rights compliant. This Framework will focus on both 'early intervention' and the 'formal youth justice system'. We intend to finalise this document early in the autumn and are keen to share it with members of the Committee. We believe it will be of significant assistance to members in their important deliberations regarding the devolution of policing and justice, especially where these issues relate to children and young people. However, we include below some initial findings from our work.

#### **Terms of Reference**

1. *To identify those policing and justice matters which are currently reserved matters under Schedule 3 of the Northern Ireland Act 1998 (the 1998 Act);*
9. We recognise that this is a broad and complex area which is demonstrated by the wide-ranging findings of previous reviews (e.g. Criminal Justice Review and the Patten Commission) and resulting legislation and reforms.
10. For the purposes of this submission, Include Youth will primarily address the reserved matters listed at Section 9, Schedule 3 of the Northern Ireland Act 1998 in respect of how these impact upon children and young people.
11. One practical issue requiring clarification concerns where responsibility lies for the treatment in the community of children who offend (i.e. supervision of court ordered community sentences). At present there exists duplication of the roles of the Youth Justice Agency and Probation Board for Northern Ireland. **As a matter of urgency Include Youth recommends the Committee seeks to resolve confusion over role of Youth Justice Agency and Probation Board for Northern Ireland regarding treatment in the community of children who offend.**
2. *To consider which of these matters should be devolved and the extent to which they should be devolved*

12. Include Youth appreciates that devolving powers in respect of justice and policing matters is controversial and divisive. It will be essential to ensure that agreed measures will secure confidence of all sections of society. We welcome the Inquiry as an important step towards devolution of powers, as we believe that local democratic control brings crucial decision making closer to those directly affected by policy decisions and interventions. Within this context of democracy and devolution, it is imperative that proposed models of devolution are measured against unambiguous human rights criteria, and comply with international human rights and children's rights standards.
13. **Include Youth believes that youth justice should be devolved as soon as possible.** Should the decision be taken to phase-in devolution of particular justice and policing powers, Include Youth strongly recommends that youth justice is processed in the first phase. In particular, we refer to the Youth Justice Agency of Northern Ireland (YJA) and its' supporting NIO functions. Include Youth works closely with the YJA and in our view, there is nothing within its organisational structure to prevent early devolution. In our opinion the agency is professionally and ethically closer to (devolved) childcare systems than to any part of the criminal justice system. We believe that current administrative partnership arrangements with such bodies as the Public Prosecution Service or Northern Ireland Court Service could be maintained effectively should youth justice be devolved before other justice functions.
14. The majority of YJA staff are qualified as social workers, youth workers or teachers, and work from a child-centred value base. Moreover, the YJA is represented on a range of regional and sub-regional multi-agency forums that address issues relating to children at risk or in need. This recognises that children in conflict with the law are often also at risk in other contexts. As recent debates have highlighted<sup>1</sup>, responses to young people in conflict with the law cannot be considered without recognising the broader circumstances of their lives; in particular, their social and economic situation, educational experiences and attainments, family life and alternative care, physical and mental health. Internationally it is recognised that children and young people at risk of committing crime or participating in anti-social behaviour are often those who leave school early, have a disability or special needs, live in poverty, have truanted or been excluded from school, have spent time in residential care or have experienced poor parenting.<sup>2</sup>
15. **We recommend that the Committee requests access to as yet unpublished research into these issues. The research was commissioned by DHSSPS and**

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<sup>1</sup> Davies, Z. and Mc Mahon, W. (Eds) (2007) *Debating Youth Justice: from punishment to problem solving?* Centre for Crime and Justice Studies

<sup>2</sup> Farrington, D.P. (2001) *Risk-focused Prevention and Integrated Approaches in Pease, K. (Ed.) Reducing Offending*. London: Home Office; and Youth Justice Board (2001) *Risk and Protective Factors Associated with Youth Crime and Effective Interventions to Prevent It. Research Note No. 5, Chapter 4. Reducing Levels of Risk – What Works*. London: Youth Justice Board

NIO in 2005, entitled *Pathways into Secure Care* and was conducted by Independent Research Solutions.

**16. Include Youth considers a holistic approach must be adopted in respect of all children, including those in conflict with the law, to ensure that the numerous and diverse problems they experience in everyday life can be identified, responded to and resolved in the best interests of the child. Central to this will be proper integration of policy, legislation, planning and delivery of services for all children and young people, and an integrated, multi-service approach by government which does not fragment and compartmentalize the lives of children into pre-ordained ‘silos’.** Include Youth recommends that the early devolution of youth justice, along with other devolved children’s issues, should be set within the framework of the United Nations Convention on the Rights of the Child, and other international standards (including the Beijing Rules<sup>3</sup>, Riyadh Guidelines<sup>4</sup>, Tokyo Rules,<sup>5</sup> and the UN Rules for the Protection of Juveniles Deprived of their Liberty). It should also take into consideration all relevant recommendations of the United Nations Committee on the Rights of the Child.

*3. To identify the preferred ministerial model and procedures for filling the ministerial post/posts for the new policing and justice department;*

**17. Include Youth is not convinced that placing youth justice within a new department of criminal justice and / or policing is appropriate or in the best interests of children, their families or the communities within which they live. Include Youth recommends that all issues relating to children in conflict with the law would be best located and progressed within an over-arching Department for Children and Young People, with its own Minister/Ministers and developed along a children’s rights - based model.** Such a department should adopt an integrated, coherent multi-agency approach dealing with all aspects of children’s lives, including education, mental health, conflict with the law, public health, children requiring alternative care arrangements, anti-social behaviour, age appropriate play space etc. It is our strong view that placing youth justice within the criminal justice framework is ill-advised. It would continue to criminalise and further marginalise children already at risk who experience a range of complex issues and unmet needs as discussed above.

**18. Additionally we strongly contend that a shift in emphasis away from criminal justice diminishes public protection. This has not happened in European States where the age of criminal responsibility is higher and the evidence suggests that a social justice emphasis enhances the safety of all citizens. Proper integration of children’s services means that early intervention, family support and preventative**

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<sup>3</sup> United Nations Standard Minimum Rules for the Administration of Juvenile Justice

<sup>4</sup> United Nations Guidelines for the Prevention of Juvenile Delinquency

<sup>5</sup> United Nations Standard Minimum Rules for Non-Custodial Measures 1990

services will be better co-ordinated, as will provisions for those children who are deemed in need or at risk in the contexts of education, mental health or care. The Northern Ireland Children's Strategy: *Our Children and Young People – Our Pledge*<sup>6</sup> outlines how services will be developed to meet six intended outcomes for all children and young people. These are:

- being healthy
- enjoying, learning and achieving
- living in safety and with stability
- experiencing economic and environmental well-being
- contributing positively to community and society
- living in a society which respects their rights

19. Include Youth asserts that, as these outcomes apply to *all* children and young people, including those in conflict with the law, they should provide the framework within which mainstream service provision can fulfil these functions.
20. **We recommend that current powers within the Office of First Minister and Deputy First Minister should be extended in respect of their oversight function vis-à-vis other government departments obligations and duty of care to children and young people who fall within their jurisdiction, particularly in relation to the Outcomes identified in the Children's Strategy.**
21. With regards to the ministerial model, our preference is to locate all matters pertaining to children and young people within one department. We accept that this may be a long-term objective achieved incrementally. Nevertheless Include Youth believes that the speedy devolution of youth justice will be an important step towards a discrete department better serving the children and young people in NI and their communities. Include Youth would welcome the opportunity to provide further information and evidence to the Committee.
22. In the absence of a discrete Department for Children and Young People, how do we deal with current practicalities? Include Youth believes that structures for the devolution of youth justice - of the Youth Justice Agency - should emphasise the best practice approaches to children in conflict with the law outlined above, including redress to criminal justice systems as a matter of last resort. **Include Youth respectfully suggests that the Committee recommends to the NI Assembly that youth justice be decoupled from the adult criminal justice process and located within a Ministry more geared towards the rights, care and welfare of children and young people.**
23. In order to determine exactly where to place this brief, for example, within Department of Education, Department of Health Social Services and Public Safety, or OFMDFM – each of which currently has a clear brief in respect of

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<sup>6</sup> OFMDFM (2006) *Our Children and Young People – Our Pledge. A ten year strategy for children and young people in Northern Ireland 2006-2016*, OFMDFM

certain aspect of children's lives – Include Youth recommends that the Committee examines international best practice, including societies emerging from conflict. We believe it is imperative that to inform decisions regarding the devolution of youth justice, members of the Committee and the NI Assembly should have an understanding of the complex and often emotive nature of the key issues in the area of youth justice, alongside evidence of what works.

**24.** In the broader context of determining a ministerial model for the devolution of justice and policing more generally, we endorse research conducted by colleagues in the Committee on the Administration of Justice (CAJ) in 2006 entitled: *'Change and Devolution of Criminal Justice and Policing in Northern Ireland: International Lessons'*. This work examines the (i) single department/minister model, (ii) two or more departmental model or (iii) shared ministry within a single department.

**25.** As stated above, whichever model is agreed it must ensure compliance with international human rights and children's rights standards. Crucial to this will be a range of safeguards, many of which have been outlined in some detail in the CAJ research.

*4. To identify what preparations need to be made by the Northern Ireland Assembly to facilitate the devolution of policing and justice matters and what preparations have been made*

**26.** **Include Youth recommends that in preparation for the devolution of matters pertaining to youth justice, the NI Assembly should engage in a programme of information gathering, outreach and engagement with children and young people, families and communities.** It is imperative that a thorough understanding is reached as to why children and young people become involved in offending behaviour which can often have devastating consequences on victims of crime, families, wider communities, not to mention the individual child or young person involved.

**27.** Whilst we appreciate that elected members spend considerable time speaking to and advocating on behalf of their constituents, we are also aware that many children and young people in conflict with law have had little or no direct experience of their elected representatives.

**28.** Include Youth's Young Voices participation project recently underwent a very successful independent Evaluation<sup>7</sup>, a copy of which is enclosed for your information, together with a Summary and Recommendations Document. The Evaluation demonstrates that it is possible to engage and enable the active participation of young people at risk, particularly those with experience of the

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<sup>7</sup> Green, R. (2007) *Evaluation of Young Voices Project July 2004 – March 2007: 'A Genuine and Authentic Voice for Children and Young People at Risk'*, Include Youth

- criminal justice system, in public consultation initiatives, with very positive results.
29. Our experience of managing this process is that young people in conflict with the law have considerable, pertinent experience which they are eager to share when they feel listened to, valued and treated with respect. As one Young Voices participant stated: *'People never listen to me – that's what makes this different is that people in here listened to me and take on my views and asked me about why I did the things I did'* (page 24).
  30. We believe that elected members would benefit significantly through direct engagement with young people in conflict with the law, as very often the prevalent media images of young people in securing eye-catching headlines. Media representation of the lives of children and young people serves to undermine them and their communities. Include Youth would be very keen to work with Committee members, and indeed more widely with colleagues in the Assembly, to help facilitate such a process of engagement through our Young Voices project.
  31. *'Before contact with the likes of Young Voices, we tapped into some groups in schools, community based groups etc. and the make up of these groups would vary – the Young Voices model gives us the opportunity to engage with the most hard to reach young people.'* Agency Representative, page 26
  32. Additionally as mentioned above we believe that the Assembly will be assisted in their deliberations by accessing the international and local evidence concerning effective ways of preventing offending by children and young people and structuring services.
    5. *To assess whether the Assembly is likely to make a request under section 4 (2A) of the 1998 Act before 1 May 2008, as to which policing and justice matters should cease to be reserved matters*
  33. As stated, Include Youth identifies no barriers to the speedy devolution of youth justice once and appropriate and effective ministerial structure is agreed to ensure the best outcomes for children and young people, their families and communities.

## **Conclusion**

34. Include Youth intends the above as a constructive submission, and we are keen to testify to the Committee should an oral submission be deemed helpful. Include Youth is committed to working in partnership with our colleagues in the NI Assembly. We request that we are kept fully informed of progress in relation to the Inquiry into the devolution of policing and justice matters, and look forward to

the issues raised and recommendations made in this response being addressed and progressed.



## **Written Submission to the Northern Ireland Assembly and Executive Review Committee Inquiry into the Devolution of Policing and Justice Matters**

### **Recommendations**

1. Include Youth recommends that proposed models of devolution are measured against unambiguous human rights criteria, and comply with international human rights and children's rights standards.
2. Include Youth believes that youth justice should be devolved as soon as possible.
3. Include Youth recommends that all issues relating to children in conflict with the law would be best located and progressed within an over-arching Department for Children and Young People, with its own Minister/Ministers and developed along a children's rights - based model.
4. In the absence of the immediate establishment of a Department for Children and Young People, Include Youth respectfully suggests that the Committee recommends to the NI Assembly that youth justice be decoupled from the adult criminal justice process and located within a Ministry more geared towards the rights, care and welfare of children and young people.
5. Include Youth considers a holistic approach must be adopted in respect of all children, including those in conflict with the law, to ensure that the numerous and diverse problems they experience in everyday life can be identified, responded to and resolved in the best interests of the child. Central to this will be proper integration of policy, legislation, planning and delivery of services for all children and young people, and an integrated, multi-service approach by government which does not fragment and compartmentalize the lives of children into pre-ordained 'silos'.
6. We recommend that current powers within the Office of First Minister and Deputy First Minister should be extended in respect of their oversight function vis-à-vis other government departments obligations and duty of care to children

and young people who fall within their jurisdiction, particularly in relation to the Outcomes identified in the Children's Strategy.

7. Include Youth recommends that in preparation for the devolution of matters pertaining to youth justice, the NI Assembly should engage in a programme of information gathering, outreach and engagement with children and young people, families and communities.
8. As a matter of urgency Include Youth recommends the Committee seeks to resolve confusion over role of Youth Justice Agency and Probation Board for Northern Ireland regarding treatment in the community of children who offend.
9. We recommend that the Committee requests access to as yet unpublished research into youth justice issues. The research was commissioned by DHSSPS and NIO in 2005, entitled *Pathways into Secure Care* and was conducted by Independent Research Solutions.