

CONSULTATION RESPONSE TEMPLATE

IMPROVING HEALTH WITHIN CRIMINAL JUSTICE
CONSULTATION RESPONSE TEMPLATE

HOW TO SUBMIT YOUR RESPONSE

Please return your consultation response via the following email or postal address **no later than 20th June 2016**. Email: cjhcstrategy@dojni.x.gsi.gov.uk Postal Address: **Department of Health, Social Services and Public Safety, GDOS and Prison Healthcare Policy Branch, Room D3, Castle Buildings, Stormont Estate, Belfast, BT4 3SQ**

Freedom of information

DHSSPS and DOJ will publish a summary of responses following completion of the consultation process. Your response, and all other responses to the consultation, may be disclosed on request.

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1/ THE CASE FOR CHANGE

The scale of the challenge (p.15-19) Have we identified the right issues? Are there any other issues you would like us to consider? Can you highlight any additional relevant research?

Need for more data:

Recommendation 28 of the Youth Justice Review called for the need to address the lack of comprehensive information and paucity of high quality statistical data across and beyond the criminal justice system in relation to children and young people.

It would be beneficial to provide more detailed statistics on the numbers of children who come into contact with the criminal justice system. Ideally, these statistics would be broken down by age and would include information on the profile of children and young people who are in the system, including if they have a care background, their educational status, their physical and mental health history and needs. These statistics should include information for children and young people detained in custody under PACE, remand and sentenced, as well as those under supervision in the community, serving community sentences and those receiving diversionary disposals, through processes such as youth engagement clinics. CJI, in their Inspection Report of Woodlands JJC in 2015, have also recommended that the JJC should take steps to increase the database of information on the young people who enter the JJC.

It is disappointing that a Health Needs Assessment has not been undertaken in Woodlands JJC. A provisional one day snapshot in September 2013 does not provide an adequate body of

information on which to develop this strategy and action plan. This lack of information should be addressed as a matter of urgency.

Mental Health Needs of Children in Justice System:

As is the case with looked after children, children with mental health difficulties tend to be over represented in the justice system. The CJI inspection of the JJC in 2015 noted that the JJC population had significant health difficulties, and mental health was especially problematic. A 2011 audit revealed:

- 77% were substance misusers;
- 40% had self-harmed;
- 30% had Attention Deficit Hyperactivity Disorder;
- 43% were already known to Community Adolescent Mental Health Services, but had not been attending.

It is clear that many of the children who enter the JJC are already known to CAMHS which highlights the importance of quality of delivery of community services. Continuity of healthcare services is vital. It may be that if appropriate, timely and tailored services were available in a community setting, many of these children would not end up being detained in the JJC or return to the JJC after a period of time of release. One must ask if the JJC is the appropriate establishment to place such vulnerable children.

The Youth Justice Review identified children with mental health issues as a distinct special needs group and in discussions with young people, the review team were told of the prevalence of mental health concerns amongst young people, particularly those living in disadvantaged communities where suicide and self harm appeared to be regular features of young people's lives.¹ This strategy should take account and deliver on Recommendation 22 of the Youth Justice Review which stated: 'All agencies working with children and young people should improve their understanding of special needs and the impact these have on those specific groups over-represented in the youth justice system and in custody. The DHSSPS should lead in developing better assessment, inter-agency information exchange and cross-referral mechanisms alongside more specialised interventions.'

The inappropriate use of custody for children and young people and over-representation of looked after children:

We remain concerned that custody is not being used as a measure of last resort and that looked after children are over represented within Woodlands Juvenile Justice Centre. PACE legislation in Northern Ireland allows the PSNI to refuse bail to a child, including on the basis that they ought to be detained in their own interests. Before the case appears in court these children are detained in a 'place of safety', which includes the JJC. **IY have become increasingly concerned that custody is not being used as a measure of last resort, in line with the UNCRC, but instead has been employed in the absence of alternative accommodation, a concern also**

¹ Youth Justice Review, page 87, para 3.12.2

previously raised by CJINI and the Youth Justice Review. This issue will be dealt with further in subsequent sections.

Governance of healthcare in JJC:

In 2015, CJI Inspectors were informed that plans for health services to be commissioned from a mainstream provider had been agreed in principle, but the transfer of funding and staff had yet to take place. The JJC Director confirmed that in the interim period, vacant posts were being filled by temporary agency staff. CJI noted that it is a matter of concern that not all temporary staff will have relevant experience for the unique child custody environment. Inspectors concluded that this may dilute expertise within the nursing team and reduce the standard of care delivered to the children. The CJI recommended that all newly appointed healthcare staff, including agency staff, should receive a robust induction process to ensure they can work effectively within Woodlands JJC.

Furthermore, CJI noted that healthcare staff had not received recent training on suicide and self harm or child protection and this was not in line with JJC policy.

CJI recommended that clinical leadership and governance should be provided for healthcare staff to maintain and improve the quality of nursing care provision and that if necessary, this should be achieved by outsourcing to a mainstream provider. It is imperative that the Improving Health Within Criminal Justice Strategy and Action Plan address all relevant recommendations made by CJI.

Needs of particular groups (p.20-21) Have we identified the right groups? Are there any other groups you would like to see included? What are their particular issues or needs?

We welcome the inclusion of children and young people as an identified group with specific needs.

However, due to the distinct nature and child's rights focus within our youth justice system we believe there should be a children-specific sub strategy dealing with the healthcare needs of children at risk of entering the criminal justice system and also with those who are currently within the criminal justice system.

We would recommend that specific mention is made of the over-representation of looked after children within the criminal justice system and in particular in detention. We welcome the

acknowledgement of the common issues affecting these children, including substance misuse, mental ill health and communication difficulties.

We would welcome a sentence which makes reference to the fact that the minimum age of criminal responsibility is 10 years of age, and that the Youth Justice Review recommended that it should be raised to 12 with immediate effect and that following a period of review of no more than three years consideration should be given to raising it to 14. The review also recommended that in the intervening period appropriate local services and programmes should be developed to meet the needs of children and young people who would otherwise have entered the criminal justice system (recommendations 29 and 30). While the numbers of very young children entering the system may be low, it is none the less significant that our colleagues in health recognise their responsibility for ensuring that all steps are taken to prevent such young children ever coming in contact with the criminal justice system. Where possible these very young children should be dealt with through a health and welfare setting rather than a criminal justice approach. This is in line with the principles of the Scoping Study on children in justice system and we are hopeful that the Improving Health Within Criminal Justice strategy and action plan will address the proposals emerging from the Scoping Study.

While we agree that contact with the youth justice system provides an important to engage or re-engage children and young people with health and social care services, we are eager for health and social services to see what role they have in preventing children and young people entering the youth justice system. It is our experience that many of the young people we work with have complex unmet health needs and that if they had been provided with the necessary support services and interventions, they may never have entered the youth justice system.

Young people's views:

"it's the way you're brought up, that's what puts their head away, it's what they've been through, then they commit crime – you see stuff you didn't want to see and it puts your head away."

"the stuff you see at home makes you angry."

"stuff you see when you are a child."

2/ A NEW DIRECTION

Overview (p. 25-26) Do you agree with the proposed scope, purpose, timeframe, aims and objectives of the Strategy and Action Plan? Please explain.

We welcome the fact that the strategy will cover the health and social care needs at ALL STAGES of the criminal justice journey, from police contact to resettlement. It is vital that the strategy and action plan covers as much of the journey as is possible. However, as we believe that many of the children and young people who come into contact with the criminal justice system have already had identified and unidentified health needs before they enter the justice system, it is critical that this strategy is broadened in scope to include prevention. A focus on prevention and early intervention will ultimately reduce the numbers of children and young people entering the criminal justice system. We would suggest that the aims and objectives be revised to read: The overarching aim of the draft Strategy and Action Plan is to ensure that children, young people and adults in contact with and at risk of coming in contact with the criminal justice system are healthier, safer and less likely to become involved in offending behaviour. We would welcome clarity on whether the strategy and Action Plan will include children and young people going through diversionary disposals such as Youth Engagement Clinics and those receiving Discretionary Disposals from PSNI.

We believe the Action Plan would benefit from having a timeline with clear target dates for actions to be achieved.

Service goals (p. 27-34) For each stage in the criminal justice journey, have we correctly identified what a good service would look like and who should be involved? Please explain.

Police response and prosecution:

We would like to see a specific point in relation to children and young people noting their particular vulnerabilities at this stage and the need for comprehensive wrap around support to be provided in a child friendly format.

Arrangements should be in place to allow for referral or diversion of vulnerable individuals with not just **severe** mental ill health or learning disability. This definition could be broadened to include a wider group of individuals.

Young people's views on how much care and attention are given to health care needs by police?

*"They don't give a sh**, unless it's the victim that has the health need, if the person doing crime has the health need they don't care."*

"I knew a boy who had downs syndrome and the cops restrained him and all, used pepper spray and he hadn't a clue what was going on."

"they only care if you're fit for interview."

"all cops are different. I know one fella and if this cop hadn't brought him into hospital he would've died."

The courts process:

We firmly agree that information must be made available to criminal justice decision-makers on health and social care needs of those children and young people who come before them and that judiciary should be pro-active in enquiring about the health and social care needs of children and young people. The quality and range of information that is provided is critical and must be of a high enough standard to inform decisions.

It is essential that a range of post-diversion health and social care services for children and young people are available in the community. Diversion will only work for children and young people if their health and social care needs are adequately identified and they are referred to appropriate community, voluntary and statutory sector support services as soon as possible when they come into contact with the criminal justice system.

Young people's views on how much care and attention are given to health care needs by courts?

"the court does nothing."

Does the judge take health needs into account?

"No."

"They don't even listen, they only listen to the peelers."

"The cops will ask you if you have asthma or and a learning disability and all that stuff – and if you can read and write."

Custody:

As we have already stated custody should only be used as a last resort and we are aware that currently custody is not being used as a last resort for children and young people.

IY have become increasingly concerned that custody is not being used as a measure of last resort, in line with the UNCRC, but instead has been employed in the absence of alternative accommodation, a concern also previously raised by CJINI and the Youth Justice Review.

This is especially concerning given the high level of mental health needs of those detained in custody. A recent response to an Assembly question noted that at the time of the question being submitted, 21% of Youth Justice Agency cases in the community are known to CAMHS, and the proportion of children in the Juvenile Justice Centre with mental health concerns has fluctuated between 45% and 64%.²

The CJI inspection of Woodlands in 2015 noted that many of the children detained at the time of the inspection displayed high levels of mental and emotional health needs. The dramatic increase

² AQW 50675/11-16 Answered 23/11/15

in the incidents of self harm highlighted in the inspection and the disproportionate number of girls self harming is cause for particular concern.

The CJI Inspection of Woodlands in 2015 noted that high numbers of children were still being sent there for very short periods on foot of Police and Criminal Evidence (PACE) proceedings; around one third of the population comprised Looked After Children (LAC) whose resettlement prospects were challenging; and delay in processing children's criminal cases was having a negative impact.

The high level of PACE admissions appeared to be based more upon geographical proximity to the JJC than any other criterion, and it was clear the JJC was being used when no alternative accommodation was available for these children. This was inappropriate use of the facility which costs around £9.3m per year, and while it may have provided stability at a time of crisis, it was not the JJC's primary purpose.

PACE disproportionately affects children in care³ and often results in such children being detained inappropriately in the JJC, due to a lack of appropriate alternative accommodation. Information supplied to CLC and IY by the YJA indicates that from October 2014 until September 2015, 139 young people have been admitted to the JJC under PACE, representing 254 admissions. 55 of these young people were looked after children (LAC), with 111 LAC PACE admissions in total. LAC children represented 40% of individual young people admitted under PACE, and LAC PACE admissions represented 44% of total PACE admissions.⁴ The Youth Justice Review reported its concerns that care homes refuse to take children back if they have offended against the home or a member of staff, or where they are considered unruly.⁵

In many cases, children detained under this legislation are released on bail once their case is heard in court and do not receive custodial sentences. In September 2015, the YJA estimated that over the last five years, the PACE conversion rate (i.e. whether the young person detained under PACE will be released or will be further detained on remand or sentence) has remained largely consistent at around 50% each year i.e. half of the young people admitted to the JJC on PACE are released.⁶ CJINI has also reported that between April 2010 and March 2011 only 9% of children detained under PACE ultimately received custodial sentences.⁷ **It is clear from these statistics that detention under PACE is not being used as a measure of last resort.**

³ In 2011, 227 children were detained in the JJC under PACE, with 77 of these children being from care homes. In 2012, this figure rose to 229 children, with 76 children from care homes. In 2013, 315 children were detained in the JJC under PACE, with 139 children from care homes. In 2014, 245 children were detained the JJC under PACE, with 95 children coming from care homes (Information received from Department of Justice, January 2015).

⁴ Information received by CLC and IY from Youth Justice Agency, 8th December 2015. Figures are provisional and may be subject to change.

⁵ 'A Review of the Youth Justice System in Northern Ireland', September 2011, para.3.6.4.

⁶ Youth Justice Agency Annual Workload Statistics 2014/15, 25th September 2015, p.13.

⁷ 'An announced inspection of Woodlands Juvenile Justice Centre', Criminal Justice Inspection Northern Ireland, November 2011, p. 4.

A large number of children detained under PACE are detained due to breach of bail conditions.⁸ Concerns have been expressed that bail conditions imposed on children are unrealistic and are difficult to uphold due to the number of conditions and their complexity. The Youth Justice Review noted that the imposition of unrealistic bail conditions on children puts them at risk of being set up to fail, particularly where their lives are already chaotic and unsettled.⁹ Include Youth also have very serious concerns that PACE detentions to the JJC are much higher in areas which are geographically closer to the JJC than in areas further away. CJINI has also raised serious concerns at this trend, which it describes as a “*postcode expediency*”.¹⁰

The Youth Justice Review recommended that an appropriate range of accommodation, accessible at short notice, be developed to reduce to an absolute minimum the use of the JJC as a place of safety under PACE,¹¹ that there be a strict adherence to the statutory presumption of bail, supported by the availability of an appropriate mix of suitable accommodation,¹² that LAC should not be placed in custody, either through PACE, remand or on sentence, where this would not have been the outcome for children in the general population,¹³ and that the practice of using the JJC as a place of safety for PACE procedures should be reduced to an absolute minimum through these measures.¹⁴ In its most recent inspection monitoring progress on implementation of the Youth Justice Review’s recommendations published in December 2015, CJINI found that these recommendations had not been achieved.¹⁵ CJINI noted that funding for the role of the Criminal Justice Officer in the DHSSPS, who provided a direct interface between the DoJ and DHSSPS in relation to LAC and placement within the JJC in particular, had been withdrawn by the DoJ in April 2015.¹⁶

In 2012, the NILC recommended that Article 39(1)(b) of PACE be replaced and that new bail legislation include a requirement that bail must not be refused on the sole ground that the child does not have any, or any adequate, accommodation.¹⁷ New bail legislation to provide for these

⁸ For example, in 2013, 315 children were detained in the JJC under PACE, with 52% of these children initially detained for breach of bail conditions (Information received from Department of Justice, January 2015).

⁹ ‘A Review of the Youth Justice System in Northern Ireland’, September 2011, para.3.6.3.

¹⁰ ‘An announced inspection of Woodlands Juvenile Justice Centre’ Criminal Justice Inspection Northern Ireland, May 2015, p.6.

¹¹ Recommendation 8.

¹² Recommendation 9(d)

¹³ Recommendation 19.

¹⁴ Recommendation 18.

¹⁵ ‘Monitoring of Progress on Implementation of the Youth Justice Review Recommendations’ Criminal Justice Inspector Northern Ireland, December 2015, p.29, 32, 46 and 48.

¹⁶ *Ibid*, p.46 and 48.

¹⁷ ‘Bail in Criminal Proceedings’ Northern Ireland Law Commission Report, September 2012, NILC 14 (2012), Chapter 6. The NILC also recommended that a range of accommodation options for children and young persons on bail be made available. In relation to bail conditions, the NILC recommended that specific consideration be given to the age, maturity, needs and understanding of the child, and that the best interests of the child must be a primary consideration when imposing or varying conditions. It also recommended that bail decision makers must ensure that young people understand bail decisions and conditions.

reforms has yet to be taken forwards. CJINI has reported in December 2015 that no date has been provided of when and whether a Bail Act will come into force in Northern Ireland.¹⁸

It is clear, given the inappropriate detention of extremely vulnerable young people and the over-representation of LAC in the youth justice system, that detention is not being used as a measure of last resort and that the recommendations of the Youth Justice Review in this regard are not being implemented. Whilst we note that the scoping study will consider options to reduce any overuse of the JJC for non-sentenced children,¹⁹ Include Youth are of the view that the evidence has already been produced and recommendations to address this longstanding issue have already been made and now must be taken forward, rather than yet another re-examination of the problem.

It is critical that this strategy addresses the accommodation needs of vulnerable children who come in contact with the criminal justice system.

The continuity of healthcare between community and custody is a critical issue for children and young people. The effectiveness of the care that children receive while detained in Woodlands JJC is compromised when provided in isolation from preventative intervention and continuity of provision on release from custody. The absence of effective Child and Adolescent Mental Health Services (CAMHS) remains a concern and one that undoubtedly impacts on those children who come into contact with and are at risk of coming into contact with the criminal justice system. The Youth Justice Review noted that little priority has been given to improving responses to behavioural problems or conduct disorders and that children's mental health issues have been addressed in a fragmented way across criminal justice, care, mental health and education rather than a single joined up strategy²⁰. It is hoped that this strategy and action plan will address this fragmentation.

Resettlement:

Children and young people are extremely vulnerable on release from custody. We accept that for children and young people, the challenge to access health and social care on release can be great. That is why it is paramount that children and young people are identified as a particularly vulnerable group who will need support to navigate the agencies they can access support from on release. One to one support is valuable during this transition period and ideally this should be established well in advance of release date and continue on post release. Information sharing and communication are prerequisites to a successful transition to the community. This support should be made available to those being released after a period of remand as well as those who have been sentenced.

¹⁸ 'Monitoring of Progress on Implementation of the Youth Justice Review Recommendations' Criminal Justice Inspector Northern Ireland, December 2015, p.31.

¹⁹ Official Report (Hansard) Tuesday 19th May 2015, p.2.

²⁰ Youth Justice Review, page 88 para 3.12.2.

Strategic priorities (p.34-43) Have we identified the right strategic priorities? Are there any other areas that you feel should be given priority in the Strategy and Action Plan?



2/ A NEW DIRECTION – ACTION PLAN

Please share your views on the actions identified for each strategic priority. Have we identified the right actions? Are there any other actions you would like to see included?

Service planning and commissioning (p. 2 of action plan)

We support the intention to provide a robust mechanism for determining the level of health and social care need of those in contact with the criminal justice system. Comprehensive evidence must be collated on the health and social care profile of children within the youth justice system to enable this need to be identified.

We welcome the intention to establish service-user groups and would hope that this will include children, young people and their families.

Continuity of care (p. 3-4 of action plan)

2.14 We believe that the action to ‘**explore** low and medium secure mental health facilities for under 18s’ should be strengthened and expanded upon. We are keen to establish how this action links to the youth justice review recommendations and the subsequent Scoping Study. We would welcome more detail and a timeline associated with this action.

Workforce development (p. 5 of action plan)

We welcome the acknowledgement that the third sector has a potential contribution to make in post release support and would recommend that discussions happen with third sector colleagues as soon as possible to explore how they can contribute to the delivery of the action plan.

While we welcome the proposal to establish an annual healthcare and criminal justice conference we would recommend that a distinct conference is held exploring the health issues for children and young people.

Diversion of vulnerable individuals (p. 6 of action plan)

We welcome the commitment to cross departmental working on diversion and the need to involve a wide list of agencies and departments. We would urge any diversion work with children to where possible be undertaken by Health and Education primarily with Justice having a lesser role. Community based intervention where possible should be made available to children and young people. We are especially keen to draw attention to the need to prevent the early criminalisation of children, particularly our most vulnerable and disadvantaged children and young people. Looked after children are too often criminalised and this strategy and action plan must address this urgently.

Health promotion and ill health prevention (p.7-8 of action plan)

We welcome the intention to develop a suicide and self harm strategy and action plan on substance abuse. Timings should be attached to the completion and implementation of these strategies and action plan.

Young people's views:

"when you are on drugs it does something wrong to your head, to your thinking."

"drugs send you mad."

"you think you are always right when you are on drugs, that you're right all the time, that you're making the right choices, but you're not making the right choice."

Social care (p. 9 of action plan)

We welcome the inclusion of social care as a strategic area of priority but are disappointed by the limited range and depth of actions included in the action plan in relation to this area. Many of the actions are associated with data collection, which we agree are necessary actions but do not in their entirety cover what needs to happen to enhance social care in the justice system and in custody in particular. We would have expected this section within the action plan to have been more ambitious and to have associated targets and timelines alongside the actions.

Accommodation (p. 10 of action plan.)

Housing and appropriate accommodation is an essential element in supporting children and young people both to reduce the numbers entering the youth justice system and to reduce the numbers of children and young people reoffending. This is especially true for looked after children who come into contact with the youth justice system.

3/ DELIVERING CHANGE

(p. 45-47 of consultation document) Please share your views on the proposed approach to resources, governance arrangements, monitoring and evaluation.

We welcome the priority given to service-user feedback as an important strand of evaluation and monitoring. We would welcome clarity on what service –user groups will be established and seek reassurance that this will include a children and young people’s group.

EQUALITY CONSIDERATIONS

A preliminary Equality Screening, including a Disability Duties and Human Rights Assessment, has been undertaken and the draft Strategy and Action Plan have been screened out: however, a review of Equality Screening will be undertaken following the public consultation exercise. Responses to the questions below will help to inform this review.

Are the proposals set out in this consultation document likely to have an adverse impact on any of the nine equality groups identified under Section 75 of the Northern Ireland Act 1998? If yes, please state the group or groups and comment on how these adverse impacts could be reduced or alleviated.

Are you aware of any indication or evidence – qualitative or quantitative – that the proposals set out in this consultation document may have an adverse impact on equality of opportunity or on good relations? If yes, please give details and comment on what you think should be added or removed to alleviate the adverse impact.

Is there an opportunity to better promote equality of opportunity or good relations? If yes, please give details as to how.

Are there any aspects of proposals where potential human rights violations may occur?

FURTHER COMMENTS

Please include any further comments on the consultation document in the space provided.

Signature: Paula Rodgers

Date: 30th June 2016

Thank you for taking the time to respond to the consultation.