

include YOUTH

**Comments on DoJ Transitioning Youth Justice: A Strategic
Direction for Children and Young People in Contact with
the Youth Justice System
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Include Youth

Include Youth is a regional rights-based charity for young people in or leaving care, from disadvantaged communities, or whose rights are not being met to improve their employability and personal development. We work with over 800 young people a year aged between 14-25. Our main offices are in Belfast, Armagh, Ballymena, Derry, Enniskillen, Newtownards and Omagh.

The young people we work with and for include those from socially disadvantaged areas, those who have had poor educational experiences, those from a care background, newcomer young people, young people with mental health issues, young people who have committed or are at risk of committing crime, misusing drugs and/or alcohol, engaging in unsafe or harmful sexual behaviour, or at risk of being harmed themselves. We provide a range of tailored employability programmes for these young people, including programmes delivered in partnership with community-based organisations.

Our Give & Take Scheme adopts a youth work approach to improving the employability and increasing the self-esteem and confidence of young people aged 16 to 24 who are not yet ready to participate in mainstream training. We work across 9 primary sites and a number of outreach locations. The core components are personal development, mentoring, training, work experience, essential skills and transitional support.

Many of these young people have experienced social exclusion, poverty or have other complex challenges in their lives and therefore need additional support to overcome these barriers and positively progress their education, training or employment needs. Seventy-five per cent of young people on the Scheme are care experienced, while over a third has a background in offending. We offer a range of tailored programmes including:

- Core - for young people aged 16-21 referred to us through the Health Trusts, a 12-24 month intensive employability programme for care experienced young people who are furthest away from mainstream education, training and employment opportunities. In 2019/2020 101 young people participated in Core.
- Start Programme – a collaborative partnership employability programme with community based organisation Northern Ireland Alternatives, targeted at young people in the North Down, Ards and Belfast areas. In 2019/2021 111 young people participated in Start.
- Outreach – for young people requiring additional support to move into employment, education and training and delivered through community groups and schools throughout Northern Ireland. In 2019/2020 191 young people participated in Outreach.

- One to One – for young people at risk of child sexual exploitation. In 2019/2020 13 young people participated.
- Transitional support – for those moving on from our Scheme and into mainstream education, training or employment or access work related courses. In 2019/2020 60 young people received support.

As part of our programme we offer care experienced and other disadvantaged young people the opportunity to gain essential skills and qualifications. Our Learning for Action programme is delivered by a team of in-house tutors who deliver weekly classes and one to one tuition to enable young people to gain qualifications at entry level, level one and level two in Literacy, Numeracy and ICT. Learning for Action is a core component of Include Youth's Give and Take scheme. Young people are given a second chance at learning and an opportunity to gain essential qualifications in settings that are informal, adaptable, flexible and that cater to their individual needs. In 2019/2020 162 young people, on the Give and Take scheme, received 240 qualifications.

Meant to Work is a one to one mentoring service for young people aged 16-24 which helps young people gain and sustain meaningful employment. Meant to Work Plus is delivered in partnership with Belfast Trust and supports care experienced young people access employment and other vocational opportunities. These programmes have supported 70 young people in 2019/2020.

Include Youth also delivers an Employability Service on behalf of two of the five Health Trusts for young people aged 16 + who have had experience of the care system. This service is designed to offer tangible and concrete opportunities to assist young people leaving care to prepare for and engage in work. 179 young people have received this service in 2019/2020.

Strive is a cross community, cross cultural, and cross border programme that engages young people aged 14-24 in good relations, person development and citizenship. We deliver this with our partners Newstart Educational Centre, Northern Ireland Alternatives, Youth Initiatives and Lifford/Clonleigh Resource Centre. The programme is delivered through local youth groups, schools and Youthreach. In 2019/2020 200 young people participated in Strive.

Include Youth also engages in policy advocacy work in the areas of employability, youth justice and policing. This work is informed by relevant international human rights and children's rights standards, is evidence based, including that provided by young people and practitioners and is based on high quality, critical analysis.

General Comments

We welcomed the opportunity to take part in the recent meeting with the Minister to discuss the development of the Transitioning Youth Justice Strategy (TYJ). As we commented at that meeting, we appreciate the pressures that exist re: meeting a tight timescale to agree the future vision of youth justice, as set out in the TYJ framework, within the existing political mandate,. We do however remain concerned that there was not a full consultation on the strategy and are disappointed that more effort was not made to involve key stakeholders, including children and young people, at a much earlier stage in the development of the strategy. We understand the strategy was developed by DoJ and YJA in response to the 2017 NI Audit Office recommendation for a specific strategy to be developed that co-ordinated the delivery of youth justice services, policy and interventions. The NIAO report also called for better measurement of the impact of YJA services. It is disappointing that DoJ and YJA did not at this early stage invite greater co-operation and adopt a co-design approach to the development of Transitioning Youth Justice, but rather retained the strategy as an internal document, that was only very recently shared with stakeholders.

There are fundamental changes suggested within the strategy which would have benefitted from a fuller and more comprehensive engagement with stakeholders.

The lack of transparency in policy making in youth justice and limited public scrutiny of key underpinning documentation and rationalities which have informed significant policy proposals (e.g.the Scoping Study) is noted as a key finding in a recently completed review of developments in youth justice in NI from 2011 to 2021 by Dr Nicola Carr and Dr Siobhan McAlister. ¹This review was commissioned by Include Youth, Children's Law Centre, NIACRO and VOYPIC and is attached to our submission.

We understand that as many of the proposals within the strategy require legislative change, there will be further opportunities to engage in full consultation and that equality impact assessments will be conducted. Include Youth will be keen to be involved in any future consultations/assessments.

It is imperative that children and young people are involved in a genuine and meaningful way in the development of future changes to the youth justice system. Children and young people's voices are noticeably absent from the strategy document.

We can see that there are elements of the strategy, especially in Strands 2,3 and 4, which are progressive and innovative, and we look forward to engaging further as more detail is provided. There is undoubtedly massive potential within Strands 2,3 and 4 to develop a strategy/framework which will deliver for children and young people. Partnership working with other agencies is crucial to the delivery of community provision and the true outworking of custody as a last resort.

¹ Carr,N. and McAlister, S. 2021, Tracing the Review: Developments in Youth Justice in Northern Ireland 2011-2021, commissioning organisations Include Youth, Children's Law Centre, NIACRO, VOYPIC.

We note that the 2020 NIAO report commented that the Transitioning Youth Justice Strategy was not a fully developed transformation strategy.

However, the founding principles and the emerging strategy have not been supported by a robust and documented preliminary quantitative and qualitative analysis of how the system works. In the context of reforming the youth justice system, there is a need to map fully and measure how the system is working, and to identify and quantify the impact of problems throughout the system.

As it stands, we do not believe the current strategy adequately meets the 2020 recommendations made by the NIAO to:

provide clarity to stakeholders on the evidence base that supports the proposed reform; define the benefits that will be achieved from successful change; and establish a framework for monitoring success.

Sufficient evidence is not provided to substantiate claims within the strategy on the impact of the YJA's work. We are still unclear what the evidence base is to support the claims of successful impact on young people's lives. There remains a lack of detail on outcome data. There is also a lack of attention to a monitoring framework. While the document demonstrates potential, it is still not in our opinion a fully developed, evidence - based transformation strategy. The lack of relevant data and the need to develop an evidence base is another key finding from the recent review of youth justice from 2011- 2021. Carr and McAlister note there are clear gaps in data in the youth justice system.

There is no clear evidence about the impacts of interventions or longer-term outcomes.²

The lack of evidence is most apparent within Strand One of the strategy. There is an assertion within the document that the YJA has been the main player in reducing the numbers of young people coming into the youth justice system. But this claim is not backed up with sufficient evidence. There is also a weak recognition of the contribution of the range of community based and voluntary sector initiatives which are reducing numbers of young people coming into the justice system and to ensuring those who have been in the system do not return there.

We would also like to question the extension of YJA's role into early intervention. We remain committed to the body of evidence- based research that demonstrates children and young people are best dealt with outside the criminal justice system and we must guard against bringing young people into the justice system unnecessarily. Carr and McAlister note that there is evidence of 'mission creep' in youth justice, particularly in the field of early intervention.

² Carr, N. and McAlister, S. 2021, Tracing the Review: Developments in Youth Justice in Northern Ireland 2011-2021, commissioning organisations Include Youth, Children's Law Centre, NIACRO, VOYPIC., page 6 and page 47

Specific Comments

Introduction and context

We would suggest the sentence on page 1 '*children remaining in the system are amongst the most challenging in NI*' be amended to read 'children remaining in the system are amongst the most vulnerable in NI, whose challenging behaviour often reflects significant complex and multi-faceted needs.'

We welcome the first two paragraphs on page 2 that acknowledges that the needs of these children are a cross departmental matter and that children becoming further entrenched in the justice system is not in their best interests. We welcome the statement that there is a need to address the root causes of offending and that this lies outwith the justice system.

For this reason, we would recommend that this strategy is not owned, directed or led by DoJ but is seen rather as a cross departmental strategy with full commitment and ownership from all departments.

In discussing the root causes of offending there also needs to be an acknowledgement that many of the young people who are in the justice system or on the edge of it are also victims themselves.

The Story So Far

We welcome reference to the Youth Justice review recommendations and the acknowledgement that on some recommendations 'progress was limited', but we would recommend a more explicit and detailed analysis of what has been achieved against each recommendation and reasons provided on why a number of recommendations have not been achieved. Initially the DoJ published progress on the implementation of each recommendation through regular Implementation Updates being circulated to all stakeholders. Those updates stopped a number of years ago and there has been inadequate reporting on progress ever since. We recommend DoJ present an updated overview of progress against each recommendation of the youth justice review. This level of analysis will inform future steps and identify priorities as well as highlighting what issues have been intractable and understanding how such blocks can be overcome.

The Carr and McAlister review of youth justice over the last ten years, Tracing the Review, commissioned by Include Youth, NIACRO, VOYPIC and the Children's Law Centre provides analysis on the progress or otherwise on specific issues including minimum age of criminal responsibility, policing, early intervention, diversion and delay, bail, remand and use of custody and criminal records. But Tracing the Review does not examine all aspects of the youth justice review and there are still outstanding issues which have not been reported on. We would expect a full and transformative

comprehensive youth justice strategy to cover all the issues which were raised by the youth justice review.

The detail of the Scoping Study was never made public and was not co-designed with key stakeholders. The proposals emerging from the Scoping Study were not developed in partnership with key agencies and importantly with children and young people.

We welcome the shift to how the system views and responds to children, putting welfare at the heart of the system and adopting a needs best approach. Include Youth would recommend the system go beyond a welfare approach to adopt a rights- based approach to how it works with children and young people. A rights- based approach should permeate all aspects of the strategy and inform future vision.

We agree that the current system segregates children's needs into different government departments and for that reason we believe this strategy should be a shared cross Executive strategy and should be closely linked and connected to the Children and Young People's Strategy.

We agree with the principle that children involved in the CJS should always be treated as children first but we would like to see a more strongly worded overarching principle which commits to the development of a children's rights compliant youth justice system in line with international children's rights standards, especially those in relation to the delivery of youth justice.

We agree with the principle that 'children should be diverted from the CJS at earliest possible stage'. We would like to see a clear definition of what diversion from the CJS looks like. A child's rights compliant justice system will offer diversion which is diversion out of the system completely, rather than diversion to another part of the system. Include Youth believes any contact with YJA is contact with the CJS, even if the YJA is delivering early intervention and diversionary support.

We support the need to offer young people 'appropriate support' but again would welcome clarification on what is defined as appropriate and who is best placed to offer that support. This should be grounded on a sound evidence base, identifying positive and long- lasting outcomes for young people. Evidence needs to be provided on the outcomes of YJA early intervention/diversion work. This evidence should also consider the role of other players in the early intervention field, establishing what role and impact voluntary and community sectors are having on reduced numbers of young people in the CJS.

STRAND ONE: EARLIER STAGE INTERVENTION

Para 1:2 – We are concerned that YJA’s earlier targeted intervention work for those on the fringes of the CJS risks bringing children into the system when they could have been supported by agencies outside the justice family.

Where children and young people are on the cusp of youth justice system, we would support referrals to voluntary and community sector projects or statutory services in the non- justice sector, rather than referrals to YJA.

Para 2:6 – We are concerned about ESI referrals to YJA for young people who have not been subject to a formal justice disposal. In this context we would welcome YJA taking a signposting role rather than a provider role. We would welcome further evidence to support the statement that ‘YJA is uniquely placed to deliver these services’. More consideration should be given to other providers outside the justice system.

Para 3:1 – We do not agree with the statement that at the point a child is taken to the police station that there are ‘no real exit points from the justice system at this early stage. Once a child has been taken to a police station, they are effectively in the criminal justice system.’ The choices that are provided at that point could redirect the child very quickly from the CJS and prevent the child being sucked into the system.

Para 3:3 – We agree that when children and families have access to co-ordinated support and advice from a range of services, both statutory and voluntary, the outcomes for children are better than bringing them in to the justice system. We would welcome evidence that supports the statement that ‘many children and families who become involved in YJA through ESI would not have been able to access appropriate services and supports without agency’s direct intervention’.

Para 3:5 – 3:8 – This would seem an opportune time to introduce the impact that having such a low age of criminal responsibility in NI is having and efforts that are being made to increase the age. A commitment to pursuing an increase in the age would be in line with adopting a child’s rights approach to youth justice in NI.

Para 4:1 – We are supportive of models which keep children out of the system. For that reason, we are not convinced that developing and growing the role of dedicated Early Stage Intervention Workers within the YJA is the best solution for keeping children out of the system. We acknowledge the positive work that ESI Workers are carrying out and this is not a criticism of the professionalism and dedication of these workers but rather the fact that this service is still being delivered from within the justice family. We welcome the commitment to continue to target funding to the voluntary and community sector. We would welcome further detail on what a 24/7 neutral safe space will look like and who will deliver this. A multi -agency approach must include the role of the voluntary and community sector.

We support opportunities being provided to allow children to exit the system without a criminal record. Diversionary disposals should not attract a criminal record.

With regard to the possible expansion of the CRN YJA Referral Scheme we would welcome evidence that this pathway produces the best outcome for the child. This evidence should include the short/medium/long term outcome of the intervention. We are keen to hear detail on the support the child receives and if this support is provided by the YJA or the wider community and voluntary sector. It would be beneficial to have this information before decisions are made to expand the scheme.

We agree that voluntary engagement with an intervention is optimal and most likely to result in better outcomes for a young person. We know from our direct practice work that young people who are engaged with Include Youth's various programmes on a voluntary capacity, feel a sense of ownership and empowerment and as a result commit to the programme.

We support further work being developed with the PSNI and social services to develop a range of options. The criminalisation of care experienced young people must be addressed. We would welcome expansion on this point.

We support the redistribution of savings to earlier intervention work. Ensuring the voluntary and community sector, including those in the children in the youth sector are resourced to conduct early intervention work is one of the recommendations of the Carr and McAlister Tracing the Review Report.

STRAND TWO: CHILDREN AND COMMUNITY SENTENCING

Para 2:1 – The lack of action on addressing delay in the system has been a major failing. The Youth Justice Review made several recommendations on delay, which need to be actioned as a matter of urgency.

Para 5:3 – We are supportive of the characteristics of the proposed new order, especially the commitment to restorative practice and interventions which include education, mental health needs and substance abuse. We are also supportive of a desistance and strength-based approach. We especially welcome the commitment to partnership working and the recognition that services delivered by mainstream providers and the voluntary and community sector are less likely to result in children being labelled under the justice banner. This approach is to be highly commended and we welcome further conversations on how this can be actioned.

Paras 5:4 and 5:5 – We welcome the commitment to listen to the child's voice and to adopt a voluntary engagement approach. However, legal representation is also critical.

We look forward to hearing more information on the informal hearing process.

STRAND THREE: CHILDREN IN CUSTODY

We refer the Department to Include Youth's response to the consultation on the care and justice campus which contains our position with regard to the proposed changes at Woodlands.

Para 2:8 – We agree with the statement that dealing with social care needs through the criminal justice system results in children being labelled.

Para 2:9 -To describe the number of children in custody who have mental health issues as an indication of an 'imperfect containment solution' seems like an adequate description and we agree that this situation must not continue.

Para 3:2 – We would question whether children sent to the new centre will not be labelled. There is a danger that the new centre will still be predominantly seen as a justice centre.

Para 3.5 – The development of a Step up/step down facility is to be welcomed but this initiative will not be the only answer and at root it is still providing an intervention which is based within a justice setting, rather than a community setting.

The strategy is extremely weak with regard to what needs to happen outside the system to prevent children entering secure care. This issue is dealt with in Strand One but predominantly with regard to YJA's role.

STRAND 4: LEGISLATING FOR CHANGE

We welcome simplification of the current legislative provision for youth justice provision and look forward to engaging further as more details emerge.

We would welcome reference to the minimum age of criminal responsibility.

Concluding Comments

We repeat our concerns that this strategy was not more widely consulted on and would urge the Department to engage in a full and comprehensive consultation exercise which would include seeking the views and experiences of children and young people. We are particularly concerned about the emphasis on YJA's role in early intervention rather than seeing this work placed within the community and voluntary sector and most importantly from non-justice agencies. We look forward to continued dialogue with the Department and to providing support where possible to future thinking.

