

CC(3)-YJ-04

Communities and Culture Committee

Scrutiny Inquiry – Youth Justice in Wales

Response from: Barnardo's Cymru

**Credwch
mewn plant
Believe in
children**



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Communities and Culture Committee Inquiry into Youth Justice in Wales

Barnardo's Cymru written evidence

Submitted by:

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A-Introduction

Barnardo's Cymru has been working with children, young people and families in Wales for over 100 years and is one of the largest children's charities working in the country. We currently run 42 diverse services across Wales, work in partnership with 20 of the 22 local authorities and last year provided support to over 8,000 children, young people and families. Our services work with some of the most disadvantaged children, young

people and families across Wales many of whom experience the kind of that are risk factors which are known to increase involvement with the criminal justice system¹. As part of this work we support vulnerable young people who are homeless and young people who are care leavers, both groups that are at particular risk of entering the youth offending system.

Barnardo's Cymru welcomes the Welsh Assembly Government's commitment that young people should be 'treated as children first and offenders second' as stated in the All Wales Youth Offending Strategy. This reflects an overarching welfare approach to youth justice in Wales which stands apart from the position taken at the UK level². Similarly the Welsh Assembly Government's adoption of the United Nations Convention on the Rights of the Child as the basis of all its work with children and young people represents an important divergence from the UK position and towards a rights based approach for children and young people in Wales.

However despite the existence of strategies underpinned by positive principles the Concluding Observations of the UN Committee on the Rights of the Child, 2008 identify an implementation gap within Wales. In other words the strategic vision of the Assembly Government is not being effectively translated into improvements in the experiences of and outcomes for children and young people in Wales. The children and young people who are at greatest risk of involvement in the youth justice system are also the most marginalised children and young people in Wales. Research commissioned by the Welsh Assembly Government and published in 2004³ suggests that children and young people experiencing the risk factors associated with youth offending were least able to be able to access their entitlements under 'Extending Entitlement'⁴ whilst in the community. The ambitions of the All Wales Youth Offending Strategy to '*ensure the universal entitlement is extended to all children and young people – including those at risk of offending or those who do offend*' can be considered therefore as presenting a significant challenge.

Whilst the challenging nature of this agenda is acknowledged, this should be considered in the context of two issues. Firstly, the majority of these children and young people will have been known to statutory services for some time before they receive a custodial sentence and this should provide the information needed to secure individual education and care plans for Welsh young offenders in the secure estate. Secondly, through the period 2007-08 a total of 387 children and young people aged 10 to 17 years received custodial sentences. While this figure is still much higher than we would like it to be it does represent a manageable cohort of Welsh young people within the secure estate at any one time. It should be possible to provide this number of children and young people with the support needed to facilitate access to their entitlements.

We welcome the fact that as a proportion of all warnings and court orders, custodial sentences only represent 3.4% of the total disposals in Wales in 2007/08. However:

- Barnardo's Cymru would like to see further progress in reducing the number of children and young people entering the secure estate in line with the All Wales Youth Offending Strategy principle that prevention is better than cure.
- The Welsh Assembly Government must ensure that Magistrates in Wales are aware of and fully understand the principles of the All Wales Youth Offending Strategy. Recent figures indicate that Merthyr Tydfil Youth Court has the highest rate of custodial disposals across England and Wales.
- Custodial sentences have a detrimental affect on the life chances and outcomes of children and young people who are already vulnerable and disadvantaged. There is little evidence to suggest that custodial sentences reduce re-offending.
- The use of custodial sentences to punish children younger than 15 is particularly problematic as well as being expensive and ineffective as discussed in our 2008 report '*Looking up or giving up?*'⁵ In 2007-08 a total of 30 children aged 10 to 14 years from Wales served a custodial sentence. Only 2 of these children were passed under Section 90/91 of the Powers of the Criminal Courts (Sentencing) Act- the sentence reserved for those committing 'grave' crimes.
- Evidence gathered through over 15 years of specialist practice by Barnardo's strongly suggests that the use of secure accommodation for children abused through sexual exploitation is expensive and ineffective.⁶ The use of secure accommodation on welfare grounds indicates a failure of the social care system. Evidence from our specialist child sexual exploitation service in Wales, the Seraf Service, demonstrates that the use of secure accommodation leaves young people with a sense of guilt about their abuse and does not reduce risks following release.

Barnardo's Cymru is concerned that the current financial constraints on public spending will divert limited resources into crisis intervention. There are already indications that in responding to the case of 'Baby P' local authorities in Wales are making decisions about focussing resources on those at greatest risk. Additional support for children and young people at the greatest risk is welcomed. However if this happens at the sacrifice of work that has started to address the need for early intervention and prevention for children in need even more children and young people in Wales will be put at risk of entry into the youth justice system. This will have a devastating impact on the delivery of better outcomes for children and young people and on the realisation of their potential.

I. What action should the Welsh Assembly Government take to improve the experience of Welsh children in the secure estate?

The Welsh Assembly Government should:

- Explore further options that will result in the placement of young people in custodial facilities that are closer to their home communities. We know that maintaining contact with the family significantly reduces the risk of re-offending. We acknowledge that the number of young people placed outside Wales has been reduced but is still a long way from reaching the target of 90% of young people to be within 50 miles of their home, set by the Youth Justice Board.
- Provide support to the families of young offenders so that they are able to meet the financial costs of visiting their children in custody. Through the assisted visits scheme families can reclaim the cost of visiting a child in prison. However families living on a low income and having to travel long distances, often on public transport, find it difficult to pay upfront costs for travel.
- Provide wider family support to the families of young offenders so that they are better able to assist their children and facilitate their rehabilitation following a custodial sentence.
- Ensure that children and young people are better able to maintain contact with families and carers through better access to affordable phone lines whilst in custody.
- Ensure that a programme to deliver Article 42 of the UNCRC , through which every child and young person should have information about their rights – is delivered to children and young people in the secure estate.
- Seek agreement from the Youth Justice Board and the Prison Service that staff operating in the secure estate will be provided with information and training so that they understand the rights based approach and the need to respect the rights of the children and young people in their care.
- Seek agreement from the Youth Justice Board and the Prison Service that the privilege and sanctions system operated within the secure estate does not disadvantage young people in the greatest need and act as a further barrier to their engagement with support to help them progress. For example young people have to earn the right to access a family centred visit where they can share a meal with their family. Barnardo's Cymru has worked with young people from North Wales and in custody at HMP Young Offenders institute Stoke Heath to produce a booklet entitled '*A Young persons guide to life in Custody*'. The booklet explains the 'demerits and privileges' system as it operates at Stoke Health and is enclosed for your information.

- The privilege and sanctions system within the secure estate should be removed for children and young people detained on welfare grounds.
- Monitor and collate data on Welsh children and young people in the secure estate so that progress can be effectively scrutinised and evidence is produced to inform action for better outcomes.

2. How effectively does the All Wales Youth Offending Strategy address issues to do with the secure estate?

- The All Wales Youth Offending Strategy sets out principles for all children and young people within the youth justice system which provide them in theory with the same entitlements as their peers. These principles are important and significant in their support of an approach which presents those in the youth justice system as 'children first and offenders second'.
- However the All Wales Youth Offending Strategy does not address in any detail the challenges associated with delivering this agenda across the secure estate, especially as many children and young people are placed a long distance from their local authority of origin. There is little evidence to suggest that there is a 'seamless' service of support for children and young people as they move from the community into custody and back out into the community. In fact many vulnerable young people are unable to access the support they need in the community before they enter the secure estate.
- We understand that the All Wales Youth Offending Strategy Delivery Plan will be published soon and we hope that this will address some of these issues. At this time evidence suggests that the aims of the Strategy are not being delivered within the secure estate in Wales.

3. What particular problems are there in the implementation and delivery of support services for children and young people including mental health provision, support for education and resettlement services?

- As a result of the work we do we are acutely aware of the barriers facing young people with additional needs in terms of areas such as engagement in education, employment or training. For example, homelessness almost trebles a young person's chance of developing a mental health problem and homelessness is frequently associated with substance misuse problems.⁷ The extent of mental health problems amongst the homeless population is disproportionately high⁸ including among young people.⁹ Young people who use substances as well as having a mental health

condition often find they do not get well integrated services.¹⁰ Young people and in particular 16 and 17 year olds may face real difficulties in accessing appropriate support for their additional needs and there is a lack of support for the transition between youth and adult services. This is especially true in the case of mental health support.¹¹ There is evidence that young people simply fall through the gap in services.

- The secure estate may represent the first opportunity for young people to receive an assessment of their needs in relation to complex issues. More should be done to take advantage of this opportunity to provide young people with appropriate support that will reduce the risk of reoffending.
- There also needs to be a re-evaluation of the way in which short-term solutions to housing crisis are used. These are expensive and use resources which could be better invested in long-term support for sustained tenancies in suitable accommodation. The reality is that Bed and Breakfast and staffed hostel accommodation are often the only options available until young people have had support to meet complex needs so that they can move on. Young people find themselves in a revolving door of accommodation options that do not meet their needs, this often leads to repeated evictions until the time that they reach 18 years of age when access to support is particularly restricted. Supported housing in small units that addresses some of the underlying reasons that put young people at risk offending and keep young people in homelessness such as substance misuse and/or mental health problems is desperately in need of investment.
- The Welsh Assembly Government must develop a process to ensure that a custodial sentence does not mean that young people are unable to progress under the 14-19 Pathway provision. Personal advisors should be put in a position to share information about a young person's individual learning pathway with the secure estate and agreement for progress on the plan should be reached. If this is not addressed the risks for young people in relation to NEETs will be increased even further.

4. What further action is needed to reduce the use of custody and to promote alternative measures to detention for children in conflict with the law?

- Evidence in relation to those children at greatest risk of entry into the youth justice system suggests that they have childhoods which render them 'children in need'. Prevention and intervention needs to start early and to take a whole families approach to building resilience and giving children the opportunities they need to prosper. The current strain on public finances represents a risk to the development of approaches which recognise and respond to need early. The

criminal justice system and community safety partnerships should recognise that early intervention through family support is part of an agenda to prevent youth offending. The Welsh Assembly Government should examine ways of facilitating more effective joint commissioning so that families are not party to numerous interventions from different agencies in a way that dilutes impact.

- Once children and young people have been identified as at risk of offending work must be community based work must be delivered to support them and their families. Barnardo's Cymru operates the CHIP and Mentoring service in Neath Port Talbot. This service is an early intervention service for children who are at risk of offending behaviour. It aims to identify children aged 8 - 12 years of age and ensure that they get the appropriate service from health, social care and education services. There is also a mentoring scheme for children aged 8 - 18 years.
- A report published by the Social Exclusion Unit¹ on young people (16 to 25 years) with complex needs (such as homelessness, mental health and substance misuse problems, offending behaviour) suggests that young people need to be able to access integrated young person centred services in one place with access to a key worker or a known and trusted adult.
- Lord Bradley's recent review of people with mental health problems or learning disabilities in the criminal justice system (2009)¹² recommends that the membership of all Youth Offending Teams must include a suitably qualified mental health worker who is responsible for making appropriate referrals to services. The Welsh Assembly Government should ensure that this recommendation is implanted in Wales.
- Lord Bradley's review also recommends that the UK Government should undertake a review to examine the potential for early intervention and diversion for children and young people with mental health problems or learning disabilities who have offended or are at risk of offending, with the aim of bringing forward appropriate recommendations which are consistent with Lord Bradley's wider review. The Welsh Assembly Government should undertake such a review in Wales.
- There is a lack of substance misuse services for children and young people. Children and young people who are misusing substances are either not accessing services or are being inappropriately treated by adult services. Children and young people who have both substance misuse and mental health problems are receiving little or no support as there are very few specialist services to meet their needs. We are aware that the National Public Health Service for Wales has recently conducted a rapid review of evidence in relation to services for young

¹ Social Exclusion Unit, (2005), *Transition: young adults with complex needs a Social Exclusion Unit final report*, London: ODPM

offenders with substance misuse problems on behalf of the Welsh Assembly Government (2009).¹³ The Welsh Assembly Government should take urgent action to ensure that evidence from this review translates into effective community based substance misuse services for children and young people.

- Recent evidence from the Youth Justice Board (2009)¹⁴ suggests that factors particularly important to girls' risk of offending behaviour are socio-economic factors (material deprivation), weak attachment to schools, low self-esteem and having friends of the opposite sex. The report also suggests that more research is needed to identify 'what works' with girls who offend. The Welsh Assembly Government should consider the evidence of the report to inform the development of gender-specific interventions for girls and young women at risk of offending in Wales.
- We are aware that the UK Government 'Youth Crime Action Plan' (2008) (for England and Wales) sets out a wide range of programmes for early intervention and community based prevention with almost £100 million funds in addition to mainstream services. In Hull Barnardo's are delivering a service to the children and families of adult offenders on behalf of Hull Children's Services. The project has a management partnership which includes the police, the prison service, probation, children's services, Homestart and Barnardo's. There is strong evidence to suggest that the children of offenders are at greater risk of entering the youth offending system than their peers. As a result this project has been funded through the DfES in England with funding from the Youth Crime Action Plan. Through our work with the NOMs Children and Young People's Pathway in Wales we are aware that there is a severe lack of provision for the children of offenders in Wales. It is not clear what proportion of the Youth Crime Action Plan funding has come to Wales or how this will be used.
- Work is needed to dispel the myths about young people as problematic as illustrated in the 'hoodie' debate. The Welsh Assembly should look at ways of challenging media representations and public perceptions of children and young people so that they provide an environment where there is a '*positive focus on achievement overall and what young people have to contribute*' (Extending Entitlement, 2004). Young people may make first contact with the youth justice system in relation to a minor incident or perceived nuisance. However once they are in the system they are much more likely to remain within it.
- The Welsh Assembly Government should engage with Magistrates across Wales to ensure that they are aware of the welfare based approach presented in the All Wales Youth Offending Strategy.
- The Welsh Assembly Government should engage with the relevant Westminster departments to review the sentencing options open to Magistrates. The use of fines for young people from low income families or for young people aged 16 or 17 and living independently extenuates child poverty. Furthermore, the sentence

options applied following non-payment of fines often mean that a position is reached where the punishment no longer fits the crime. Provision of good quality welfare intervention or engagement sentencing options could go some way to reducing re-offending and contributing positively to the NEETs agenda.

- We are aware that the Welsh Assembly Government in conjunction with the Youth Justice Board has recently issued strategic guidance on youth crime prevention in Wales.¹⁵ Barnardo's Cymru believes that prevention and diversion are most effectively achieved through work with children and young people outside of the formal criminal justice system. We welcome the 'Tier 1 - diversionary intervention' approach outlined in the guidance. However we believe that 'Tier 2 targeted prevention intervention' is also best delivered by community based projects operating outside the formal criminal justice system. While 'Tier 3- early intervention' which is aimed at children and young people subject to reprimands, final warnings and referral orders should be delivered in a coordinated way as part of a child and young person centred approach which considers the holistic needs of the child and their family.
- We are aware of a pilot scheme in Wessex that saw a 42 per cent drop in the numbers of children being given a custodial sentence over a 12 month period. The initiative was developed by the Howard League for Penal Reform and the Local Government Association in England. The pilot introduced custody panels that included representatives of the area's youth offending team, children's services and the voluntary sector and the panel reviewed cases to see if action may have been taken to avoid custody. Welsh Assembly Government should explore the potential for introducing a similar initiative Wales.

5. Should responsibility for the secure estate be devolved to Wales?

- Barnardo's Cymru believes that children and young people would be better served if they were able to remain close to their home authorities, to their families and to serve custodial sentences under a rights- based administration in Wales.
- However care would need to be taken in relation to the planning of secure facilities in Wales to ensure that the number of places made available did not inadvertently increase the number of children and young people in custody. In other words it would be important to avoid a situation where the knowledge that there were Welsh based custodial options led to decisions to increase the number of custodial sentences.

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