

Youth Justice Improvement Board

Note of Meeting

10 December 2020 10:00 – 11:30

Attendees: Lesley Sheppard (Chair)
Jenny Ward, SG (Minutes)
Liz Murdoch, SG
Tom McNamara, SG
Alison Melville, SG
Neil Hunter, SCRA
Alistair Hogg, SCRA
Lynsey Smith, Includem
Janine McCullough, Education Scotland
Elliot Jackson, Children's Hearings Scotland
Paul Carberry, Action for Children
Anthony McGeehan, COPFS
Fiona Dyer, CYCJ
Bill Fitzpatrick, Community Justice Scotland
Grace Fletcher, NYJAG
Gill Robinson, SPS
Davie Duncan, Police Scotland
John Trainer, Social Work Scotland
Kate Skellington Orr, KSO research (agenda item 3 only)

Apologies: Eddie Follan, COSLA
Cat Dalrymple, SG Community Justice
Ross McLaughlin, SOLACE
Brenda Stewart, HMP YOI Polmont
Rod Finan, SG OCSWA/GIRFEC
Matthew Sweeney, COSLA

1. Welcome and Introduction

1.1 Lesley welcomed members and provided an update on changes within the Directorate since the last meeting, including her return as Deputy Director for Care, Protection and Justice in October.

2. Minutes of the September meeting

The minute from September was agreed.

3. 16 and 17 year olds in the Children's Hearings System

3.1 Lesley welcomed **Kate Skellington Orr** from KSO Research, an independent social research consultancy commissioned to undertake the analysis of responses for the consultation into raising the age of referral to the Principal Reporter. The consultation ran between 17 June and 7 October 2020.

Kate shared key findings from the analysis explaining the methodology used to encourage responses to the consultation which included online consultations and engagement events. Respondent profiles were also covered which showed that

the majority of respondents were individuals (73%) compared to organisations (27%).

Key findings

Kate focussed on questions 1,2, and 6:

- Q1 (*do you agree that the maximum age of referral to the Reporter should be increased to 18?*). The majority of respondents answered 'yes – all cases' (91%). Several justifications for this were offered with some key reasons being support for equal/consistent treatment of all young people up to age 18 and better alignment with UNCRC/GIRFEC/Kilbrandon principles. Main arguments against the proposal included some young people not wishing to remain within a system designed for children, and the argument that young people should be treated as adults beyond the age of 16 in line with other legislation e.g. voting.
- Q2 (*if the age of referral is increased to 18, are the existing grounds of referral to a Children's Hearing sufficient?*). The majority of respondents agreed that the existing grounds were sufficient, although this was a lower percentage (68%). There were suggestions that there should be further grounds for referral based on sexual exploitation or trafficking, and on criminal exploitation, and that grounds should better reflect Adverse Childhood Experiences. It was also suggested that there should be greater clarity and precision on the existing grounds, and they should be applied more consistently. Kate covered some of the implications around potential changes, especially in terms of supporting workforce training and legal representation considerations.
- Q6 (*if the age of referral to the Reporter was increased, are amendments required to ensure sufficient access to information and support for victims harmed by children?*). The majority of respondents answered 'yes' (77%). In particular, restorative justice approaches and clear and transparent communication for victims were recommended.

3.2 Neil Hunter provided an update from the Cross-System group, reminding members that the CS group had its origins in the Child Protection System review of 2014. The group has been working to ensure compliance with UNCRC, and looking at the scale and profile of young people going through the criminal justice system. The group has also been looking at gaps and issues which need to be addressed or strengthened, and are engaged in work relating to victims.

A number of the themes resonated with the findings from the consultation responses. A recurring theme is the importance of preserving the ethos of the Children's Hearings System (CHS) and making sure improvements continue to follow a welfare-based approach. In addition, the group has been examining resource issues, looking at the level of investment required in CHS. There is a focus on young people under 18 who are vulnerable, Child Protection issues, as well as issues around data, including the need to understand data.

There are 3 workstreams within the group: Profile of young people age 16/17 reported to COPFS; Developing support and interventions for 16/17 year olds and responding to the needs of Victims. Work is underway around interventions in the workforce – developing a competent, confident workforce, increased understanding of trauma and awareness of diverse needs of young people.

3.3 Discussion

The early thinking being taken forward by the Cross-System Group was welcomed. There was agreement that the different strands of work need to be pulled into a coherent piece and align with the Promise.

The intention is that this will be reflected in the emerging Vision and Action Plan.

It was noted that staff and volunteer training is particularly important in supporting practitioners to develop the confidence and competence in handling some of the behaviours displayed by young people, especially 16/17 year olds. The Group also discussed the need for professional and public reassurance. The Board discussed the loss of focus on, and capacity for, restorative justice in Scotland and agreed this needs to be recaptured and the focus retained.

Members agreed to the next steps proposed in the Cross-System update paper.

4. Youth Justice Vision and Action Plan

4.1 Liz Murdoch provided an update on progress towards developing a suite of documents with the aim of publishing in February, one year since the Independent care review launched the Promise. These documents include: End of Strategy report; Youth Justice Standards; Vision and Priorities for Youth Justice – A rights-based approach – followed by a separate action/delivery plan and a report on engagement with young people and stakeholders produced by CYCJ. We also plan to publish EEI core elements and Framework for Risk Assessment Management and Evaluation (FRAME) with children aged 12-17 at the same time.

4.2 Youth Justice Standards – A Short Life Working Group was set up in August this year to review the draft standards following a consultation which closed in February.

Additional sections have been added around victims and participation. The final draft of the updated Standards will be circulated for comment and final sign-off in January for publication with the aforementioned suite of documents.

4.3 Youth Justice Strategy – End of Strategy Report – A copy of the draft end of Strategy report was shared with the group. The report is based around reports by the 3 implementation groups, identifying what has been achieved, some of the barriers and next steps. Members are asked to offer any comments to Liz by 23 December in order for the document to then be signed off.

Action: Board members to offer comments on the End of Strategy report by 23 December 2020 and then agree sign off.

4.4 Youth Justice Vision and Action Plan - A draft of the Vision and Priorities report was shared with the group. Development of this Vision has been based on engagement with YJIB and NYJAG, engagement with young people (Youth Parliament in March and further engagement with young people in September), and a 'qualtrics' stakeholder survey issued over the summer.

Engagement with stakeholders had generated the following top priorities: mental health, delivery of the Whole System Approach, Speech, Language and Communication Needs (SLCN), 16/17 year olds in the CHS and data and evidence. In addition, there has been interest shown in trauma-informed

approaches, Early and Effective Intervention and Child Criminal Exploitation. Priorities highlighted by young people include mental health, teaching children's rights, SLCN, building relationships, 16/17 year olds in the CHS, making the youth justice system / WSA available to those older than 18.

Engagement also focussed on barriers - investment and resources were identified as the top barriers to effective youth justice. The following were identified by stakeholders as ways of overcoming these barriers: specific interventions, stronger partnerships, more funding and investment, protecting children's rights. Young people identified the following to overcome barriers to effective youth justice: activities and opportunities (education, training, housing etc.), listening to young people, building relationships, use of secure and keeping young people out of Polmont, community alternatives, and more support for victims.

Members were asked to provide initial thoughts and comments on the draft Vision before Christmas. A further draft will then be circulated for comments in January ahead of publication in February.

Action: Members to provide initial comments on the draft Vision and priorities document before 23 December 2020.

4.5 Discussion

The use of the term 'youth justice' was discussed. It was suggested that an alternative such as 'child-friendly justice/justice for children' could be used in line with UNCRC. It was agreed that we should consider the language used but we need to be mindful of other audiences which we are looking to influence and the need to maintain connectivity and credibility. Common language which is understood by all is needed. It was noted that Police Scotland are also refreshing their Youth Justice Strategy. Both documents need to align.

It is important to make sure we maintain the momentum of the good work which has already taken place. SPS are also finalising their own vision for young people in custody, which has the Scottish Government Vision in mind. With assistance from CYCJ, SPS have also undertaken some evidence-gathering work on under 18s in Polmont which will also be helpful.

5. Impact of Covid-19 on Young People in Conflict with the Law and in Secure Care

5.1 Fiona Dyer spoke to the report produced by CYCJ on the impact of covid-19 on young people in conflict with the law.

CYCJ have undertaken a lot of research since the start of lockdown, much of which is Covid-specific but also focussing on bail and remand. This report concluded that there was system failure, resulting from trying to fit children into an adult system, where previous issues have been aggravated by Covid. There have been reports of court delays and a backlog of young people's cases not being prioritised. Further to this, young people are not always being supported at court. The numbers of young people on remand are also concerning. Alternatives to remand are not always being offered and conditions of bail are felt to be too strict to adhere to, hence breaches of bail conditions. It was agreed there is a need to look at what the alternatives are, and whether they are being considered. The CRWIA produced by the Children's Commissioner proposes different conditions for young people entering custody.

5.2 Discussion

The group agreed that the findings are concerning. It was felt that these issues should be raised with senior leaders/chief officers in local areas.

It was noted that NYJAG had written to David Harvie, Crown Agent, to express concerns around court delays and bail being opposed. The chairs of NYJAG are due to meet with COPFS in January. Transport for secure care has also been on the agenda.

The issue of bail is an important one and has been prominent in discussions. Young people in these circumstances frequently have learning/communication difficulties, are unable to understand conditions, and have difficulty understanding measures. This is a major factor in breach. Support at an earlier stage could remove the danger of later issues around breaching bail conditions.

Anthony McGeehan confirmed that there has not been any recent change in Crown policy. However, the Crown Office are not decision makers on conditions, and remand remains a decision for Sheriffs. Fewer people have been kept in custody pending their first appearance across the board (youth and adult provision) – this a result of change in policy resulting from public health restrictions. There is an increased number of individuals breaching conditions across the board and being reported to COPFS. It is important to consider the different profiles of offending throughout the pandemic.

6. AOB

6.1 The next meeting will take place in February (February 4 is the date identified), with further meetings taking place throughout the year in May and September. Calendar requests will be sent out to members.