

Youth Justice Improvement Board

Minute of Meeting

1 March 2022

10:00 – 11:30

Attendees: Tom McNamara, SG (Chair)
Jenny Ward, SG (Minutes)
Liz Murdoch, SG
Nick Rougvie, SG
Neil Hunter, SCRA
Alistair Hogg, SCRA
Lynsey Smith, Includem
Paul Carberry, Action for Children
Fiona Dyer, CYCJ
John Trainer, Social Work Scotland
Gill Robinson, SPS
Grace Fletcher, NYJAG
Jane Donaldson, Police Scotland
Ann Bell, Police Scotland
Debbie Nolan, SG
Gerald Michie, Scottish Prison Service
Kenny Donnelly, COPFS
Jillian Gibson, COSLA

Apologies: Colin Convery, Police Scotland
Catriona Dalrymple, SG Community Justice
Elliot Jackson, Children's Hearings Scotland
Bill Fitzpatrick, Community Justice Scotland
Laura Caven, COSLA
Rod Finan, SG OCSWA/GIRFEC
Ross McLaughlin, SOLACE
Stephen Bermingham, Children's Hearings Scotland
Janine McCullough, Education Scotland
Juliet Harris, Together Scotland

1. Welcome and Introduction

Tom welcomed attendees, in particular new member Kenny Donnelly (COPFS) who has replaced Anthony McGeehan on the group.

2. Minute of the previous (December 2021) meeting

The minute from December was agreed.

The following actions were identified from December's meeting. .

- Action: SG officials to consider a joint meeting between the Justice Board and YJIB to consider common issues across both portfolios now that the Justice strategy has been published. **Update: Jenny currently progressing with Justice Board secretariat to find suitable time and date.** Tom also suggested that a discussion

with the Children's Care and Justice Bill team, would be helpful, once the consultation goes live.

- UPDATE - Consultation launched 30 March 2022:
[Children's Care and Justice Bill - policy proposals: consultation - gov.scot \(www.gov.scot\)](http://www.gov.scot/Children's%20Care%20and%20Justice%20Bill%20-%20policy%20proposals%20-%20consultation%20-%20gov.scot)
- Action: Jenny to circulate draft driver diagram to YJIB colleagues **Update: Complete.**
- Action: Jenny to send website link to YJIB members. **Update: Some final additions to the YJIB website are required but once completed a link to the website will be sent to members.** Colleagues were prompted to consider how the new website could be improved with content from their own organisations.

Action 1: Jenny to set up extraordinary meeting between YJIB and Care and Justice Bill colleagues to look at Bill provisions once consultation is live.

3. Updates from Implementation Groups

Neil Hunter and John Trainer provided an update on the work of the Advancing Whole System Approach group which had met twice since the group was formed in November.

Neil explained that it was important that this group continued from the Advancing WSA group under the previous strategy. The group is looking at increasing capacity over next couple of years. Objectives and remit of the group include reinforcing and reinvigorating intensity and consistency of WSA delivery across Scotland. There is also a sub-group leading on community alternatives, chaired by **John Trainer**. CYCJ have produced baseline information during the pandemic which has been helpful to the group. The group's first focus has been EEI; in 2019 YJIB recommended a refresh of the EEI core elements and the group is now looking at support for implementation. The group is also looking at intervention for families, local capacity and strengthening relationships as well as considering recent research findings, such as those from Fern Gillon's work. Care and risk management was discussed at the inaugural meeting – how we can support CaRM which is now embedded in child protection guidance, and ensure that CaRM remains visible.

The next meeting will be a deep dive discussion around diversion and court support. Discussion will also focus on support for young people at court. There are significant gaps in terms of offering guidance and advice to young people through the court process which need to be addressed.

The group may come back to YJIB around the issue of local authority EEI funding. The consideration of local authority capacity to deliver EEI is very important. There are a few areas where colleagues must reflect on what investment is required in the youth justice world, and whether we currently have adequate resource, to ensure staff and workforce are equipped to handle the needs of young people and can respond to challenges.

Some areas of Scotland have experienced issues with increased levels of violent crime. There has been a greater distribution of crack cocaine across local authorities. Early intervention and prevention is absolutely critical to addressing these issues, and we need to have a discussion around what is fuelling this violence. The UK Government's 'levelling up' agenda will also affect Scotland.

Both Includem and Action for Children have seen a large increase in spot purchase enquiries. The gap between the number of young people going through social work referrals compared to EEI is widening. Young people are not getting the right help at the right time, and there is a lack of focus on the group in the middle who are causing significant harm for communities.

It was noted that more consideration is needed around how we ensure that we are truly preventative and remain so. We are short of reliable capacity.

Fiona Dyer provided an update on the Children's Rights group. The group has met twice since it formed in December. The first meeting looked at the group's terms of reference. The group is getting bigger and could potentially be quite large. Two sub-groups have been established: Speech, Language and Communication Needs (SLCN) which previously sat within Gill Robinson's group under the previous strategy. This sub-group has met once. The other group is focussing on participation. This sub-group is currently looking for Chair and plans to support a young person to perform that role. The participation sub-group is due to meet in March.

Some of the actions identified for the Children's Rights group are very large, such as looking at public perception of youth justice system and children's rights. These actions are quite high level, however some are more tangible which will be taken forward. The group has begun work on a suite of rights documents, linking up with partners around what children's rights are. The group is considering how to make sure children and practitioners, and everyone who needs to see these documents, is able to access them. Colleagues are also looking at co-producing standards for youth justice over the next year. There are plans to host a deep dive discussion focussing on children at court and it is hoped that the Scottish Courts and Tribunals Service will attend this meeting.

It is difficult to put parameters around broad subjects such as 'participation', but good work is taking place. Participation should ideally be threaded through everything we do. One of the actions was around use of voice and looking at virtual courts.

Tom highlighted some areas of work and key issues which the Scottish Government are focussing on including acknowledging the effects of ACR (S) Act 2019, which had just commenced on 17 December 2021.

HM Chief Inspector for Prisons, Wendy Sinclair-Gieben produced a proposal around under 18s in YOIs which was sent to the Cabinet Secretary just before Christmas 2021 for consideration by Ministers.

UPDATE : Ministers responded to paper in early March 2022.

Cross-border deprivation of liberty: A policy paper was published in January for comments from stakeholders. The partial advisory role for CHS which was suggested within that paper has not received universal support. Scottish Government colleagues are reconsidering this work.

UPDATE: Analysis of responses and updated policy position produced on 25 March. See link to factsheet:

<https://www.gov.scot/publications/cross-border-placements-of-children-and-young-people-in-residential-care-in-scotland-regulation-of-deprivation-of-liberty-dol-orders/>

4. Children's Care and Justice Bill

Brendan Rooney and Debbie Nolan provided an update on progress towards the Children's Care and Justice Bill, giving an outline of areas to be covered in the Bill and consultation (which was launched on 30 March –see link above).

There is a slot being allocated to the Bill in the Government's parliamentary period timetable. Colleagues will carry out engagement with partners including YJIB, looking at any issues with capacity and systems out with legislation.

The Bill will seek to give expression to the Promise as well as Claire Lightowler's report and to the Youth Justice Vision.

The key pillars for the Bill are: raising the age of referral to principal reporter; providing support and information to victims; improving the experience of young people entering the criminal justice system (e.g. a presumption against children going into YOIs); maximising the use of the secure estate; looking at the provisions available through the current criminal justice system (e.g. mandatory sentences, anonymity) and examining whether these are things we want to change. We will look at secure care, how to ensure children have a route into this, and whether we need to increase the age of a child in secure care. We will also look at how to reduce financial disincentives, especially around remand cases. The Bill will also look at cross-border placements. There is also some acknowledgement to ACR in the Bill, however this will be reviewed given the need to build, and learn from, an evidence base.

5. Under 18s in YOI

Tom provided an overview of the issues relating to under 18s in Polmont, and some of the work underway to address this.

There has been a significant push from the Children's Commissioner and proposal before Christmas from HMIPS Wendy Sinclair-Gieben on this matter. This has prompted concern from areas such as the Promise, and lots of focus from Ministers.

The driver diagram, which was circulated to members before Christmas, has been updated (paper 5 circulated in advance of the meeting) and outlines the work being taken forward by the Scottish Government to address this matter.

It was felt that the driver diagram is helpful and shows all of the different areas of work moving at pace. One of the things missing from the driver diagram, however, is adequate financial framework, showing how to get from our current state to our desired future state. It is also important that skills and capacity are upgraded, and that the right systems and support are available.

This commitment features in the Government's Promise Implementation Plan, launched on 30 March:

[Keeping the Promise implementation plan - gov.scot \(www.gov.scot\)](http://www.gov.scot/keeping-the-promise-implementation-plan)

Gill Robinson and Gerry Michie presented to the group on under 18s in Polmont and work they are progressing around improved standards of care in Polmont (on the back of a pre-inspection report from November).

There is a major programme of work going on in different locations and across different functions in SPS to support the removal of 16 and 17 year olds from YOIs.

This work is driven by a number of factors such as reports which have been published on the experience of young people in custody and requirements to be fully compliant with the UNCRC and the Promise. The main driver is to do all we can to help the endeavours of all involved to ensure there are no more 16 and 17 year olds in custody.

The ability to engage with young people and learn about their stories has been crucial. Colleagues are learning more and more about these young people and are using that information to design new arrangements to bring this change about.

The total number of children in custody at any one time is very small although it does not represent an insignificant number. The process by which a child enters custody is very fast, almost all are on remand and they arrive suddenly. Whatever mechanisms will be used to

support these children will have to be swift. SPS colleagues are currently learning more about the route of these young people into custody and are building up case studies. Such routes are individually complex. At the same time, there are a proportion of children in care who are involved in serious offences and presenting a risk to public safety. The issue of transition continues to be a challenge, especially as a fairly high proportion of young people are nearly 18. We need to consider how best to support these young people who, as they turn 18 and age up to 25, may be very vulnerable.

SPS have been ensuring that care for young people is as good as it can be, this includes practicalities such as the use of restraint techniques which do not cause pain.

Since the 31 August (arrival of Gerry Michie as Governor of Polmont), SPS have seen 35 children come into their care. Out of those 35 only one was convicted, 11 were there for less than a week (of those 11, 6 were there for less than 48 hours and 5 less than 24 hours). Although keeping young people safe and well is a priority, the very quick turnaround means that there is sometimes a lack of knowledge and lack of planning for young people coming into their care. There are currently 15 in care of Polmont, 5 of those 15 turn 18 this month.

Some of the measures which SPS have put in place to support young people include a full-time inclusion officer, additional Barnardos resources and additional college/educational resources. Activities are provided all day and since Christmas no child has been affected by a lack of activities. More phone minutes have been offered to call family and friends, as well as life skills activities such as a joiners workshop.

Colleagues are gathering evidence on a daily/weekly/monthly basis. If a young person does not wish to engage on a daily basis, a Barnardos officer will be there to look at the reasons why. SPS welcomes the Care and Justice Bill, the Promise and the Youth Justice Vision.

6. Young People in the Court System

Fiona highlighted a discussion paper she had drafted on young people in the court service. It is clear that there is not a shared understanding of what it means to be UNCRC compliant across Scotland. One area of focus within the paper is children in adult courts: children should not participate in adult courts (some advocate that children shouldn't go into a court building at all), what can we do to change that.

The paper also looks at security, trial by jury and removing children from the adult court environment. Despite the Crown Office presumption against prosecution, around 30% of young people who enter the criminal justice system are attending adult court. There are, however, some examples of good practice across Scotland, including two youth courts.

The paper received positive comments from YJIB members. It was noted that the paper could be a positive contribution to the transition between now and the future, although we need to understand where we see it in relation to Keeping the Promise, the Care and Justice Bill and the Age of Referral – and how it can contribute to both helping the transition as well as creating future UNCRC compliant architecture.

Due to time constraints it was agreed that colleagues would offer initial comments to Fiona and that this would be revisited at the next meeting.

Action 2: All to offer views on the discussion paper to Fiona.

7. CHIP update

Tom provided colleagues with a brief update from the previous CHIP meeting which took place on 24 February, with discussions centred mainly around system recovery in the CHS, Age of Criminal Responsibility and National Care Service review.

A detailed written update of the CHIP meeting is attached to this minute.

8. NYJAG update

Grace Fletcher provided a brief update on the last meeting of NYJAG which took place on 23 February.

The group is looking at secure care transport. Colleagues will consider how best to contribute to the YJIB website. The group is involved in a number of sub-groups, working groups and is participating in consultations. Workshops, such as that held around the Bail and Remand consultation, have taken place with a good turnout and a range of views received.

A detailed written update of the NYJAG meeting is attached to this minute.

9. AOB

- Date of next meeting: Tuesday, 7 June 2022