

Youth Justice Improvement Board

Minute of Meeting

7 June 2022

10:00 – 11:30

Attendees: Tom McNamara, SG (Chair)
Jenny Ward, SG (Minutes)
Liz Murdoch, SG
Brendan Rooney, SG
Neil Hunter, SCRA
Alistair Hogg, SCRA
Lynsey Smith, Includem
Paul Carberry, Action for Children
Fiona Dyer, CYCJ
Grace Fletcher, NYJAG
Jane Donaldson, Police Scotland
Gill Robinson, Scottish Prison Service
John Trainer, Social Work Scotland
Juliet Harris, Together Scotland
Kenny Donnelly, COPFS
Laura Conachan, Children's Hearings Scotland
Rod Finan, SG/OCWSA
Janine McCullough, Education Scotland
Ian McKinnon, Police Scotland
Gerald Michie, Scottish Prison Service
Karen Ralston, CYCJ
Jillian Gibson, COSLA
David Doris, SG

Apologies: Catriona Dalrymple, SG
Elliot Jackson, Children's Hearings Scotland
Bill Fitzpatrick, Community Justice Scotland
Laura Caven, COSLA
Ross McLaughlin, SOLACE

1. Welcome and Introduction

Tom welcomed attendees and in particular new members Juliet Harris Together Scotland, and Ian McKinnon Police Scotland and Laura Conachan, attending from Children's Hearings Scotland in place of Elliot Jackson/Stephen Bermingham.

2. Minute of the previous meeting (March 2022)

The note of the 1 March 2022 meeting was agreed.

Jenny provided an update on the following actions identified from March's meeting:

- 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. **Complete** – ***the extraordinary meeting was arranged under agenda item 4.***

- Action 2: All to offer views on the discussion paper on young people at court to Fiona. **Complete – but it was agreed that further discussion would take place during agenda item 4 if required.**
- Action 3: 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. **In progress: Jenny currently progressing with Justice Board secretariat to find suitable time and date in the Autumn.**

3. Updates from Implementation Groups

Neil Hunter and John Trainer presented updates on progress of the Advancing the Whole System Approach implementation group.

There have been two meetings of the Advancing WSA group since the last YJIB, which had focussed on CAMHS and CaRM. A few significant priorities have been identified. Firstly, to support EEI with an ask of YJIB to consider how we can maximise consistency, capacity and capability of delivery of EEI across Scotland and look at what YJIB can offer in terms of support as we move to the next phase. Secondly, looking at how the youth justice agenda seeks to keep the Promise. What kind of support will be offered as a group?

CaRM had also been discussed by the group. Work with Child Protection committees is needed to ensure CaRM is properly contemplated, along with ACR. SG are introducing minimum datasets on this aspect, so local authorities will need to report on this in their returns. Work which the group had focussed on previously is now sitting elsewhere – for example, the 16 and 17 year olds in the CHS agenda now has its own momentum within the Care and Justice Bill. The WSA landscape is changing, and some of the priorities the group is leading on have a different implementation focus. This means that we must be nimble in our thinking around what WSA represents in this changing context. There has been some adapting required around the secure care work. The group is going in the right direction, although it does still require some stable membership from agencies.

Equitable access to CAMHS, and a commitment to finding a consistent pathway to CAMHS across the country, were both very important. There is a lack of priority given to young people presenting with forensic needs – CAMHS is mainly focussed on young people who present with severe MH needs. Speech and language a priority (there are many young people in Polmont for whom speech and language is a barrier) and the group hopes to explore this further with NYJAG. The Children's Rights group has an SLCN sub-group so it was agreed a joined up approach is needed. Consideration will be given to an event.

Action: John and Fiona to link up on SLCN actions.

Fiona Dyer and Juliet Harris provided the group with an update of progress made in the Children's Rights implementation group meeting, which took place on 12 May and the working groups which sit under that group addressing speech, language and communication needs and participation.

There is some overlap between the work of the two implementation groups. The Children's Rights group has focussed on a few key areas, such as children in court. The group has identified the courts as one justice-related system where young people's rights are sometimes not upheld. The group is looking at the structure of the courts and what these could potentially look like if adapted to be child-friendly. Scottish Court and Tribunals Service participated in the last meeting and agreed to check how Sheriffs Principal should be consulted with regard to the creation of youth courts. The group is waiting for an SCTS response around the suggested court model.

There is some learning to be gleaned from the youth courts in the Lanarkshire local authorities. There are some special measures which could be applied for children, but which are not being applied consistently, and there is still much more to do to uphold children's rights.

A paper has been drafted for Chief Social Work Officers, highlighting issues raised by NYJAG, around alternatives to YOI for 16 and 17 year olds not classed as children.

The group has also been looking at the letter of rights, ensuring children know their rights and understand how the system can improve.

Group discussion: Gap analysis around EEI is welcome, as is an exploration into how this will link into the Wellbeing Fund. Young people who have been in conflict with the law are sometimes viewed as separate to other family support groups. Work is required to ensure this cohort of young people remain on the agenda. There is a lack of confidence among the workforce in working with young people who have been in conflict with the law. We must make sure that we are giving professionals and decision-makers the confidence to take action, and invest in training. The group will revisit this subject at the next meeting in September. It was suggested that a YJIB-sponsored collective workshop may also be helpful in the future.

The Dumfries and Galloway pilot around alternatives to criminalising children in residential care has been rolled out to all but one area of Glasgow. An audit and evaluation of the service will provide good feedback.

Compatibility of legislation within the UNCRC, especially criminal procedures, needs to be examined. Some legislation defines 16 and 17 year olds as adults not children. A mapping exercise of legislation will be carried out by the group, looking at incompatibility and will produce a paper for circulating at the next meeting.

Child Criminal Exploitation (CCE): Information sharing is a national issue when it comes to organised crime, as information is not being shared as routinely as possible. A definition of child criminal exploitation is still needed. Information sharing impacts on young people – if a definition of CCE can be developed, then it is less likely that young people will be viewed as criminals but rather exploited by criminals. We must recognise the changing landscape, the challenges faced by young people and the dangers they are in.

There is an opportunity to comprehensively redefine 'children' as those under the age of 18 with a focus on a youth justice service which is neater than it currently is, and to offer a comprehensive WSA approach for 18-25 year olds. Confidence of the workforce is key in handling CCE.

Barnahus – CYCJ and a number of organisations have written to the Cabinet Secretary expressing the view that all under 18s should be supported by the Barnahus service and not just victims and witnesses. It is important to make sure we don't have a two-tier approach in Scotland.

Action: SG colleagues to set up separate conversation about Barnahus.

Barnardos have undertaken a piece of work in which young people were asked about their experience of courts. Some positive feedback has been received which will be shared with colleagues. The virtual court experience has been more positively experienced than anticipated.

Action: SPS colleagues to share Barnardos research on young people and their experience of courts.

4. Children's Care and Justice Bill

Brendan Rooney, Care and Justice Bill team leader provided a presentation on matters raised through the consultation on the Children's Care and Justice Bill . Attendees were reminded that the consultation on the Bill comes to a close on 22 June 2022, and were asked to get in touch with the Bill team separately with any further questions or comments.

Colleagues considered, in terms of maximising work of the Children's Hearings Working Group to the fullest extent, what the Children's Hearings System can do to support the improvement in the systems which young people encounter. The consultation asks about issues such as remittal, and what this may look like on a discretionary basis, what information and support can be offered to victims, about extending the locus of the Children's Hearings System post-18, and where does that take the CHS.

Discussion centred around the following three key areas: **maximising the use of the CHS, children at court, and advocacy.**

The group discussed how best we can maximise the displacement of under 18s out of the criminal justice system. If we are going to attract the confidence of professional decision makers, we need to bolster measures particularly in relation to older young people. We need to consider the ramifications of change in legislation such as the provisions around raising the maximum age of support provided to young people.

The group also discussed the benefits of movement restriction conditions (MRC) as an alternative to custody, and the importance of making sure that children are not up tariffed due to breaches.

The test/threshold for MRC is the same as an alternative to custody is the same as that of secure care. The success of MRC is due to the intensive support around it, ensuring young people don't behave in a way which gets them into further difficulties. Having proper resources in place to meet expectations and needs for support of these young people is important. Discussion around this will be crucial and we need to think about how we develop those intensive supports.

The resourcing funding element is inescapable. Much of that will come under focus from Ministers as the Bill progresses through Holyrood. The proposals of the Bill will try to look at de-escalation, but we need to look at where the line is drawn.

Further discussion centred around the proposals in the consultation, and looked at good practice across the country and what can be learned from it, in local authorities such as Glasgow. CYCJ position remains the same that young people should not be in an adult court and support the idea of the Reporter making the decisions for summary hearings but of young people also participating in a proper youth court. This require some redesign and could potentially extend to the age of 26.

The justice system must be fair for children and the extent to which children and young people are not understanding the conclusions drawn by the court is concerning. We must uphold rights and respect justice as well.

5. CHIP update

A written update from the last CHIP meeting which took place on 19 May was circulated to members in the SG updates paper.

6. NYJAG update

A written update on the last meeting of NYJAG which took place on 1 June 2022 was shared with the group.

Highlights of the NYJAG meeting include the following: Most of the NYJAG meeting was spent on the Bill consultation, and members are in the process of collating feedback. Feedback centred on subjects such as ideas around courts for young people, and a trauma-informed and rights-based interaction with justice services which doesn't necessarily dilute justice. NYJAG supports the Bill and are pleased that some matters, which have been discussed for a long time, are represented in this Bill.

COPFS are still not represented on NYJAG. NYJAG have written to Kenny Donnelly. There has been a recent focus on the increase in undertakings, and work force development will be discussed in September. Some work is also underway with Claire Lightowler and Clan Childlaw to look at legal representation for young people in conflict with the law.

NYJAG will be participating in the Youth Justice Conference on the 15 and 16 June.

Secure care transport continues to be a matter for discussion.

7. AOB

- Date of next meeting: 14 September 2022 (It is hoped this will be in-person meeting, and may move to Monday 12 September to be able to host in Edinburgh).
- Jillian Gibson raised the matter of transport for secure care and some of the issues which it is hoped YJIB might be able to help resolve. There was not enough time to discuss this but Jillian advised that a specification for secure care transport had been drafted, which had support from secure care centres and young people and welcomed any thoughts from members out with the meeting.