

Communities and Culture Committee

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Committee Inquiry into Youth Justice in Wales - evidence gathering - Nacro Cymru

Purpose

1. Nacro Cymru welcomes the opportunity to provide evidence to the inquiry into youth justice in Wales and to provide written evidence into the experience of Welsh children in the secure estate.

2. Nacro is the leading charity in Wales and England dedicated to making society safer by reducing offending. Our practical services give offenders and those at risk of offending the skills, support and motivation they need to change their lives for the better. Each year Nacro helps over 90,000 people through 300 projects across England and Wales. We combine our services to individuals and communities with campaigning: lobbying for better ways to reduce offending, while demonstrating how this can be done in practice. In recognition of our commitment to working in Wales, Nacro established Nacro Cymru in 1998 to co-ordinate current services and take forward future initiatives in Wales. Nacro Cymru's Youth Offending Unit works with the Welsh Assembly Government and youth justice services and partnerships across Wales.

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

3. The All Wales Youth Offending Strategy is an important mechanism for monitoring the issues associated with the secure estate. The strategy has the aims of preventing children and young people from offending and having effective community based alternatives to custody in place. The prevention of offending is one of the key elements that can have an effect on entry into custody, which in turn should ameliorate the current situation whereby Welsh children and young people enter secure facilities in England and suffer disadvantage to their rights compared to their English counterparts and other children and young people who remain in Wales.

4. The All Wales Youth Offending Strategy is currently being 'refreshed' and it is anticipated this review will help the Welsh Assembly Government and Youth Justice Board to continue to build on the co-ordinated response they have been developing to children and young people in trouble with the law in Wales.

5. Recent developments have led to the formation of an action plan and of a committee structure that will support its delivery plan for 2009/11. The plan will focus on six priority areas, prevention, re-offending, custody, education, accommodation and substance misuse. The arrangements and new structure are currently being set in place and the refreshed strategy has not yet been published as such it is at this stage difficult to comment on effectiveness.

To what extent is the Welsh Assembly Government's 'rights based agenda' in its support to children and young people, delivered to Welsh children in the secure estate?

6. The United Nations Convention on the Rights of the Child (UNCRC) underpins the All Wales Youth Offending Strategy and the strategy promotes the principle that young people should be treated as children first and offenders second.

7. The UN Committee has produced general comment number 10 (2007) on children's rights and juvenile justice and the general principles and specific articles (37 and 40 notably) that apply to the treatment of young people in the youth justice system. The recommendations and guidance are intended to assist state parties to develop integrated youth justice policies and to incorporate the requirements of other international standards into national strategy. This would seem to be a good basis for the Welsh Assembly Government and Youth Justice Board in working jointly together to ensure that a rights based approach is delivered to children and young people in the secure estate whether in Wales or England. The committee structure mentioned above could be a mechanism for doing so and each committee should consider incorporating the relevant elements in its terms of reference and agendas.

8. Additionally, the UN Committee in its concluding observations in response to the various submissions received in the last reporting round on progress in implementing the UNCRC, made a series of recommendations, that included with regard to custody

'developing a broad range of alternative measures to detention for children in conflict with the law; and to establish the principle that detention should be used as a measure of last resort and for the shortest period of time as a statutory principle' and

'provide the statutory right to education for all children deprived of their liberty'.

9. The rights based agenda in Wales is firmly linked to Extending Entitlement and the seven core aims (from Children and Young People: Rights to Action). Whilst YOTs have to consider how access to entitlements is achieved in their annual Youth Justice Plans, the visible commitment to children's rights and their implementation remains an area the Welsh Assembly Government and Youth Justice Board need to develop in their strategic approach to youth justice in Wales.

10. The delivery of rights on an individual basis remains a challenge, given the distance that young people in custodial establishments can be held away from their home area (the Youth Justice Board no longer specify a 50 mile radius), the cultural factors such as language that might help or hinder their ability to understand and respond to the environment they find themselves in and the possibility they may be engaged in a different education curriculum.

11. Whilst provision in Ashfield YOI has gone some way to address the needs of young people from Wales who are remanded or sentenced there, this remains difficult to achieve elsewhere because of the diversity of establishments that young people can be placed in outside Wales.

Should responsibility for the secure estate be devolved to Wales

12. With regard to the issue of devolving responsibility for the secure estate to Wales, Nacro believes this would present immediate difficulties as there is inadequate secure provision in Wales for the numbers of young people currently being denied their liberty. For example

There is no dedicated secure provision for girls in Wales, aside from that which may or may not be available at Hillside, when required

There is no juvenile secure custodial facility in North Wales for anyone under 18 years of age

There is no local authority secure accommodation in North Wales

There is no secure training centre in Wales

13. The available secure capacity in Wales is

64 places for remanded or sentenced young people at Parc YOI, Bridgend.

15 places in Hillside secure accommodation in Neath.

14. Information from the Youth Justice Board indicated that 150 young people were in custody in March 2009, 83 of which were located in England and 67 in Wales (145 were boys and 5, girls). These figures indicate that 45% of young people who are sentenced or remanded to the secure estate spend their time in establishments in Wales. Whilst the Youth Justice Board indicate this is an improvement on the position in 2000 (9% were in Wales) it suggests that if responsibility is to be devolved

Capacity in Wales would need to be increased to ensure that there is an adequate supply.

The geographical distribution would need to change to ensure that young people from North and South Wales can be placed. A breakdown of the Youth Justice Board's figures for the year ending March 2008 indicates that 70% of young people sentenced to custody from Wales were from the South Wales area, indicating that a small but significant number of placements are required in North Wales.

The type of accommodation would need considering to ensure it is able to meet the varying needs of the young people concerned.

15. These requirements would require significant capital investment and whilst the Youth Justice Board and the Welsh Assembly Government have explored the issue of developing secure provision in North Wales, the matter of resourcing has not been resolved.

16. The Youth Justice Board is responsible for commissioning and making placements across the juvenile secure estate (young offender institutions, secure training centres and local authority secure children's homes). The issue of devolving the secure estate to Wales presents a number of difficulties that would need to be addressed

The requirement to be able to project demand and forecast trends and supply the range of placements that would be required. Whilst the Welsh Assembly Government have indicated a commitment to placement in small units, it is not clear if this is in local authority secure accommodation or another form of provision. The question is raised as smaller establishments are preferable, but have higher staff to child ratios and are therefore more expensive in terms of unit cost than other forms provision.

As mentioned without capital investment and the expansion of current provision a proportion of young people would remain outside Wales, which would not address the matters of cultural need or identity, proximity to home or the ability to access entitlements

There is also the problem of who to commission places from if considering the current pool. There are no secure training centres in close proximity to Wales, not all secure units take criminal placements and of those that do not all are located close to Wales. Vinney Green in Bristol, Barton Moss in Manchester and Red Bank in St Helens are probably the nearest.

The Youth Justice Board have reduced the number of local authority secure children's homes it purchases and as a result pressure on existing units is likely to increase. Reduced availability suggests that there would be increased pressure from those seeking places that could potentially place the Assembly Government and the Youth Justice Board in competition with each other.

There would need to be flexibility in budgetary arrangements that allows for both ring fenced funding of places and the ability to spot purchase.

17. The devolution of the secure estate would also need to take account of the Youth Justice Board's placement function if it were to operate in the same way and the significant administration that requires.

18. Of relevance when considering this issue in the proposal in the Youth Crime Action Plan 2008 to make local authorities responsible for the cost of court ordered secure remands and whether local authorities should in the long term be responsible for the funding and placements of custodial places. Frances Done, Chair of the Youth Justice Board has indicated support for this as one of the ways of reducing the number of young people in custody and of it being an inducement to local authorities to look at those at risk of custody if

they were to bear the cost of it (Children and Young People Now 2 April 2009).

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

19. The All Wales Youth Offending Strategy indicates that effective community based sentencing should be available as alternatives to custody for children and young people who offend. Nacro Cymru would concur with that view and would suggest that are a series of measures that can be considered in implementing this strategic objective further.

20. In promoting alternatives to custody Nacro Cymru would like to see more emphasis placed on developing robust alternatives for younger children who experience custody. The annual custody figures for Wales (sourced from the Youth Justice Board's website), suggests that the number of children and young people aged 14 years and under, represents 8% of young people that entered custody in Wales in 2007/8.

Table 1: Number of 12, 13 and 14 year olds sentenced to custody

Age	March 2003	March 2004	March 2005	March 2006	March 2007	March 2008	Average per annum
12 years	3	1	0	3	0	2	2
13 years	5	11	16	6	11	4	9
14 years	41	29	41	26	34	24	33
Total	49	41	57	35	45	30	43

21. The trend indicates there has been an overall downward trajectory although not necessarily progressive year on year over the last six years and that young people aged 12 and 13 years in particular on average represent around eleven young people a year entering custody. The majority of this age group are serving detention and training orders of between four and 24 months duration, with eight 12 and 13 year olds (13%) and eight 14 year olds (4%) serving a section 90/91 sentence, which is usually a long-term sentence of detention imposed by the crown court for particularly serious offences.

22. Nacro Cymru is unaware of any work in Wales that has examined the histories and experiences of younger children, which has specifically focused on the opportunities for earlier intervention or the provision of preventative services that could have averted the use of custody. It is understood that a forthcoming Barnardos report will provide information based on English examples.

23. Given the trend and age distribution of the younger age group it suggests that Wales could be looking at developing real alternatives by developing services that would meet the requirements of the forthcoming community based Youth Rehabilitation Order, which has two requirements that are intended to be alternatives to custody. This means they are only available if the sentencing court considers the case before it is sufficiently serious enough to have passed the threshold for a custodial sentence, being 'so serious' that only a custodial sentence will suffice. These requirements are:

The Youth Rehabilitation Order with a fostering requirement. The Youth Justice Board has been piloting an intensive fostering scheme in Hampshire and Staffordshire and if successfully evaluated could be offered in Wales, particularly in those areas that have the highest custodial levels or on a 'consortium' basis across several smaller authorities.

The Youth Rehabilitation Order with an Intensive Supervision and Surveillance requirement (ISSP). This builds on the existing Intensive Supervision and Surveillance programmes, but makes them statutorily available only when an offence is sufficiently serious for a custodial sentence.

24. The provision of services for these requirements would promote attractiveness as sentencing options and their use by the courts have the potential to reduce the demand for custody. For the fostering requirement it is clearly the development of appropriate services by the local authority that is the key; for the ISSP requirement it would be provision of

Access to existing ISSP services, such as drug and alcohol advice, accommodation advice, mental health services, education, training and employment provision and ensuring receipt of Children Leaving Care Act services (where eligible) on a more intensive basis than the National Standards for Youth Justice, which have become the norm of service provision rather than the minimum.

Access to ISSP services (such as those listed above) over a longer time period than currently available, beyond the life of the compulsory period of the menu of requirements, where there are continuing risks and needs.

Promoting and facilitating support to enable the transition from 'specialist' requirement based services to universal services within the

wider community.

25. A further option would be to develop services which would meet the requirements of the Home Secretary's powers to licence open settings for placement for those under 18 years of age serving custodial sentences, for all or part of their sentence. Such powers have always existed (and were used prior to April 2000) for those serving the then equivalent of section 90/91 sentences. They have existed since the passing of the primary legislation for sentences under the Criminal Justice Act 2003, and were extended to cover detention and training orders by section 34 of the Offender Management Act 2007 although this has yet to be implemented.

26. The Welsh Assembly Government and Youth Justice Board could explore the implementation of this. Such services would obviously require accommodation (in a residential unit or possibly a family placement), educational provision and a range of other specialist services depending on needs. On open placement of this sort would need to be maintained by a well-structured level of support, supervision and surveillance to satisfy the courts and the wider public that any risks can be appropriately managed.

27. In terms of developing these alternatives to custody, the approaches could be targeted at the younger age group initially and in particular those that would be subject to a detention and training order, becoming available for the older children as it develops. Such a strategy would be significantly less costly per capita than provision of the same number of places in secure facilities.

Remand to local authority accommodation

28. It is established that there is a link with what happens to a young person at each stage of the court process and the ensuing impact on court outcomes and in particular the likelihood of receiving a custodial disposal (Thomas and Hucklesby 2002). One aspect of this that is important is the remand tariff and considering the options that exist within it. A remand to local authority (non secure) accommodation is one of the options available for all those under 17 years of age, but particularly for younger children.

29. In continuing our focus on younger children, the following table (from Youth Justice Board statistics) provides information on 12, 13 and 14 year olds and their remand status from 2003.

Table 5: Number of 12, 13 and 14 year olds denied bail

Remand Option	March 2003	March 2004	March 2005	March 2006	March 2007	March 2008
Remand to local authority accommodation (RLAA)	40*	20*	31	15	13	6
RLAA + Tag	0	1	0	0	2	1
Remand to secure estate	28	23	20	14	19	12
Total	68	45	51	29	34	19

* Includes one 11 year old

30. It indicates that the rate of remand to the secure estate is nearly double that of remand to local authority accommodation, a near reversal of the situation six years ago, however it also indicates a downward trend in both.

31. Nacro Cymru believes there should be robust arrangements in each local authority area to ensure that a remand to local authority accommodation with placement in an open setting in the community is a realistic option and is actively considered for younger children in particular. Whilst the young people remanded to the secure estate have to meet the criteria for a remand to local authority accommodation with a security requirement with the current monitoring arrangements there is no established, consistent process to identify whether additional support could have averted the need for the use of security.

Monitoring the use of custody

32. One of the other ways of reducing the use of custody is have in place robust arrangements to review the cases of those that are liable to be remanded or sentenced to ensure that all other options are considered.

33. The Youth Crime Action Plan 2008 recommends that formal review processes should be developed for children who go into custody to identify whether any interventions could have prevented this, to improve joint agency responsibilities and planning and to identify how needs can be met when planning for resettlement. A number of YOTs operate 'panels' to consider what other alternatives may be available to be proposed to courts and ideally these panels should aim to prevent a custodial episode in the first place.

34. The Howard League for Penal Reform has recently reported on the findings of a pilot scheme it undertook in respect of custody panels. They advocate for the setting up of a children's in each local authority area that would review the case of every child sentenced to custody. The panel would comprise the youth offending team and children's services and review whether any actions could have been taken to prevent a custodial sentence occurring and services that might have been provided to prevent it. In their report *Custody Panels Impact of a pilot scheme on juvenile sentencing rates*, they claim this approach has led to a decrease of 42% of children sentenced between 2007 remand 2008. Although it should be noted that custodial sentences generally fell during this period (Nacro March 2009) and the reviews were occurring post sentence rather than prior to it. The report is not detailed in highlighting the contributory factors, but does suggest the approach has potential.

35. A further approach would be to consider what role Local Safeguarding Boards could play in monitoring and intervening in the use of custody. One approach might be to ensure that the cases of all first time entrants are reviewed as well as the cases of younger children (those aged 14 years and under). An independent reviewing officer could consider what services the local authority has offered, particularly to those remanded to the secure estate, and look in particular at the options for a bail supervision and support programme. In the case of those denied bail and remanded to local authority accommodation (children and young people who become looked after), the reviewing officer has a legitimate role in the planning arrangements for them. The management boards of youth offending teams also have a role to play in reviewing custodial levels locally and in ensuring that agency contributions that can be a factor in prevention are available and resourced.

Do specific groups of children and young people need additional support?

36. In terms of meeting the needs of other specific groups of young people, the Youth Justice Board's website (accessed 27th May 2009) indicates that in response to concerns expressed by the Welsh Assembly Government that it is reviewing whether the needs of young Welsh speakers are being met by secure establishments in England and Wales. The review is intended to cover the current provision of Welsh language services, including education provided in Welsh and to identify the availability of Welsh speaking custodial staff. No further information is provided about the projected timescales or whether the findings will be published. However, this is a potentially valuable piece of work and can help to inform how services to Welsh speakers in the secure estate could be improved.

37. Nacro Cymru would also like to focus attention on young people with unstable living arrangements, particularly as uncertain and impermanent living arrangements can contribute to the reason for a custodial remand or sentence. Young people can lose their accommodation as a result of being remanded or sentenced to custody and having nowhere to live on release, can affect the ability to be released. It is well established that stable accommodation can reduce the likelihood of re-conviction. Also, children and young people who are maintained in the community are likely to present significantly less resettlement issues than those who are not.

38. Nacro Cymru in a study in 2005 of how YOTs in Wales were addressing young people's housing needs found that the availability of accommodation for 16 and 17 year olds in housing need in particular was generally inadequate. Nacro Cymru has also more specifically examined the living arrangements of 452 young people sentenced to custody in 2004 and found that those with housing needs prior to custody tended to continue to have them afterwards. Young people who were living in the family home prior to the custodial episode were most likely to return and remain there. Young people not living with their parents prior to the custodial sentence were more likely to become homeless during the community element of the order, than those who had been living at home. There was also a high degree of itinerant living amongst those living alone or independently and the indications were that once this pattern of living is established, it was difficult to break.

39. Facilitating and encouraging visits to young people in the secure estate from family members that enable contact to be maintained are important in helping to ensure that relationships are maintained. Nacro Cymru's 2007 research found that 81% of young people who had been living with a parent prior to custody returned there afterwards.

40. The research indicated that vulnerable young people who lack a supportive family network or suitable place to live need considerable support and these needs could also only be addressed on a multi agency basis. Whilst youth offending teams will undertake assessments and identify needs they are ultimately not the providers of housing services and are reliant on children's services of the local authority housing/homelessness department to meet the needs of the young person concerned.

41. The House of Lords in the case of *R (G) v Southwark* (20 May 2009) have recently found that Children's Services departments must accommodate and support young people who have no accommodation to go to or who lack parental support as opposed to referring them to housing departments. Local authorities will now be required to review the level of support a young person requires and to if necessary carry out assessments and draw up support plans that can include addressing accommodation, finance, education, employment and health needs and the skills required for independent living.

42. The fact that the accommodation needs of young people has been identified as a priority area for service delivery in Wales by the 'refreshed' AWYOS process is positive as is the objective to increase access to suitable accommodation for young people who require it. There is a committee structure to support the delivery. The "All Wales Youth Offending Strategy" should be the mechanism for monitoring young people's access to settled and suitable accommodation, however local partnerships, public and private accommodation providers need to work together to ensure that young people are able to access their entitlements. Local authorities and children's services also need to positively engage with young people in the process of resettlement prior to leaving custody.

What particular problems are there in the implantation and the delivery of support services for children and young people in the secure estate, including mental health provision, support for educational and resettlement services and what action should the Welsh Assembly Government take to improve the experience of Welsh children in the secure estate?

43. Effective resettlement requires the engagement of a range of agencies and a wide acceptance of the part they can play particularly in terms of access to mainstream universal services. However one of the barriers to this is the distance that young people can be held from their home area in terms of the ability of key staff from such agencies to engage with young people and attend resettlement review meetings. It would be helpful for guidance relating to the single children's plan to reinforce the crucial role partner agencies in delivering resettlement services. A point of note here is that release on temporary licence is available (although excludes those with a bail offence) and can be used to help young people to engage with services they will need once released from custody. However, detention a significant distance away from home, the reality for many, makes this impractical to achieve.

44. Children and young people in custody who require help and support with education should have an Individual Learning Plan that identifies how needs will be identified in custody and the community. However in 2008 Estyn reported that there is sometimes a lack of clarity about who should produce the plan and the form it should take. They also suggested there should be greater representation by local authority education officers in review meetings in the secure estate. Additionally, there are issues for those young people detained in England who seek further education, training or employment advice. It is the responsibility of Careers Wales to provide such advice and guidance, whereas young people detained in England will receive this from Connexions. Detained young Welsh people in England are still required to meet with Careers Wales on their return home, which suggests the need for more collaborative working between English and Welsh agencies in order to provide a 'seamless service'.

45. A further area relates to the lack of provision relating to Child and Adolescent Mental Health Services within Parc YOI. This means that if a male Welsh young person were detained in Wales an important component in addressing the needs of those with mental health problems and mental disorders does not exist. Although there are services to address substance misuse, it does mean an important element of what should be an holistic service provision for cases such as those where dual diagnosis exists or those, which are complex because of problems being experienced and needs, presented, cannot be provided. David Hanson in reply to a question asked by Madeline Moon MP indicated that the Local Health Board has submitted a draft business case to the Welsh Assembly Government to address this need (Hansard 19th January 2009).

46. The Youth Crime Action Plan 2008 indicated an intention to extend the Resettlement and Aftercare provision. Whilst the position on this in Wales is not as yet clear it would seem that extending the availability of extra support for those with substance misuse problems in particular is an additionally helpful resource and also suggests that enhanced support could be considered for other young people who could benefit from it.

47. The Welsh Assembly Government should continue to work with the Youth Justice Board to ensure that young people in the secure estate receive their entitlements and through the planning and strategic mechanisms they have monitor the quality of outcomes for young people as well as inputs.

How effective are arrangements for implementation and the delivery of provisions that blend reserved and devolved functions?

48. The All Wales Youth Offending Strategy is the mechanism through which the arrangements for young people involved in the youth justice system can be effectively approached in terms of devolved and non-devolved responsibilities. The fact that youth justice is a reserved matter requires that the Welsh Assembly Government and Youth Justice Board work closely together, particularly to ensure that the different policy contexts and strategies in Wales are taken into account.

49. Nacro Cymru has been commissioned by the Welsh Assembly Government to examine issues relating to the provision of accommodation and also mental health services to young people by YOTs. This work is to support the development of the All Wales Youth Offending Strategy in terms of providing information to assist in the development of services for young people who offend in areas of functional responsibility for which the Assembly Government has devolved responsibility.

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