

Cynulliad Cenedlaethol Cymru  
Y Pwyllgor Materion Cyfansoddiadol a  
Deddfwriaethol  
Bil Senedd ac Etholiadau (Cymru)

National Assembly for Wales  
Constitutional and Legislative Affairs  
Committee  
Senedd and Elections (Wales) Bill

CLA(5) SE08  
Ymateb gan Bwrdd Cyfiawnder  
Ieuencid

Evidence from the Youth Justice Board

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## **The Youth Justice Board for England and Wales**

As a non-departmental public body (NDPB) with a unique focus on children in the youth justice system (YJS), the Youth Justice Board for England and Wales (YJB) welcomes the opportunity to respond to an inquiry into the general principles of the Senedd and Elections (Wales) Bill.

Our statutory responsibilities along with the expertise of our Board enable us to set standards for, and monitor the operation of, the youth justice system. Our work with Youth Offending Teams (YOTs) gives us an operational focus, which allows us to inform national policy and maintain a focus on the continuous performance improvement of youth justice services.

The YJB is the only official body to have oversight of the whole youth justice system and so is uniquely placed to guide and advise on the provision of youth justice services.

We are particularly interested in this consultation because of the need to focus on the rights of children in the YJS.

### **Vision**

A youth justice system that sees children as children, treats them fairly and helps them to build on their own strengths so they can go on to be successful and productive adults. We aim to prevent offending, create safer communities and fewer victims.

### **System Aims**

- 1) To reduce the number of children entering the youth justice system
- 2) To reduce reoffending from children in the youth justice system
- 3) To improve the safety and wellbeing of children in the youth justice system
- 4) To improve the positive outcomes of children in the youth justice system

### **Our role**

The role of the YJB is to oversee the youth justice system in England and Wales. The statutory responsibilities of the YJB include:

- Advising the Secretary of State on the operation of, and standards for, the youth justice system;
- Monitoring the performance of the youth justice system;
- Identifying and promoting good practice;
- Commissioning research and publishing information

While the YJB is responsible for overseeing the performance of youth justice services including multi-agency youth offending teams (YOTs), the YJB does not directly deliver or manage these services.

### **YJB Response**

This response does not seek to respond in detail to the consultation, but rather addresses the considerations in relation to “**Lowering the minimum voting age of National Assembly elections to 16**”.

The YJB has given evidence to the Equality, Local Government and Communities Committee undertaking an inquiry to examine the principle of whether prisoners – **including children** – should be allowed to vote in Assembly elections? The YJB recommended when considering voting rights for children in the YJS, the Committee should recognise in line with a “Children’s Rights” approach, promoting equality and non-discrimination should be a primary consideration in policy development. All young people are entitled to their rights and involvement in the YJS should not preclude this. While the full breadth of children’s rights set out to enable participation, provide for, and protect children, Article 12 of the United Nations Convention on the Rights of the Child states that Children have a right to have a say in the decisions that affect them. Any proposal to extend voting rights to all children of 16-17 should equally apply to children who are in, or at risk of entering the YJS; whether they are serving community or custodial sentences.

### **Points from the children rights impact assessment**

*986. It is anticipated that the Committee’s analysis of this issue will provide a substantive evidence basis with which to address the legal, ethical, democratic, practical and human rights issues relating to prisoner voting – including youth offender voting – and thereby determine the potential for addressing this matter in the future.*

*987. For this reason, the Bill does not extend the right to vote in Assembly elections to those 16- and 17-year olds who will be prohibited from voting by the Representation of the People Act 1983.*

*988. This decision has been taken in light of the need for further examination of the associated legal, ethical, democratic, practical and human rights issues outlined above, and as such is not considered to infringe upon children’s right to be free from discrimination.*

*989. However, it is anticipated that any youth offenders in prisons will still have the opportunity to learn about voting through the education they receive in prison. Although such young persons would not currently have the opportunity to vote while in prison, they will be able to vote after they leave prison, and as such should not be denied access to opportunities to learn about their voting rights.*

The YJB does not agree that the franchise, if extended to children who are 16 and above should exclude children that are in custody.

Children in contact with the YJS are, by the nature of their involvement and circumstances, vulnerable and can face multiple barriers to equality of opportunity. These barriers should be identified and removed. Children should be provided with additional assistance to take full advantage of what they are entitled to so they can contribute to the decisions that affect them.

The number of first time entrants into the YJS in Wales has reduced by 88% over the last 10 years. This is due to the system becoming increasingly diversionary because of national initiatives aimed at increasing police discretion to deal with low-level offences (through the introduction of youth restorative disposals/community resolutions) and the flexibility to use pre-court disposals (for minor offences). Likewise, the numbers of children from Wales in custody has reduced from 164 in 2008/9, to 27 in October 2018 and 84% overall.

Because of these reductions, **most children in the YJS are accommodated in the community**. Should voting rights be extended to under 18s they would be treated as any other child of voting age. As stated previously, the YJB considers these rights be equally applied to children in custody. When considering the small number of children in custody, the matter is one of practicality: processes and mechanisms should be in place to facilitate a vote by either postal or physical means. Additionally, to ensure children are meaningfully empowered to vote, they should be provided with information that is accessible and appropriate to their developmental level and maturity.

Of the 27 Welsh children in custody in October 2018 (the latest information at the time of writing). A breakdown of these numbers reveals the following points that have a bearing on any policy considerations:

- 25 of the 27 are aged 16 or over;
- almost 30% are on remand awaiting sentence. In many cases the sentence outcome may be a Youth Rehabilitation Order, where the sentence is served in the community;
- 17 are in custody in Wales, the remainder are placed in secure establishments in England;

In considering the importance of ensuring equal rights for children in the YJS, research advocates a rounded model of desistance practice that takes account of the wider social context of children and young people's behaviour. It points to the importance of trusted professional relationships as a medium for change, and

points to a focus on individual empowerment and enhanced social inclusion as being objectives as opposed to simply focussing on reduced reoffending. Having the right to vote would be a means of enhancing the capability of children to make an active contribution as member of society and contribute to increased social inclusion.

Further; a recent Her Majesty's Inspectorate of Probation Report on Desistance and Young People, published in 2016, set out what it sees as essential elements for an effective approach to working with children in the YJS. Several recommendations in the report are relevant considerations for the inquiry:

- using custody sparingly; custody seriously limits future life chances and opportunities
- personalisation; the process or desistance will be different from young person to young person – one size does not fit all
- recognition of the significance of social contexts and the need to work with them; family, school, peers, community and work promoting redemption; recognising and rewarding attempts to give up crime; encouraging and confirming positive change; using restorative approaches
- creating opportunities for change and integration; the experience of being a part of (adult) society; rewarding constructive activities.

## **Conclusion**

The YJB supports the Senedd and Elections Bill principal to extend the franchise to children who are 16 and 17 years. however, there should be no distinction made between children in custody and any other children. The YJB believes equal opportunity should apply to children in the YJS. It is clear from a rights-based approach that there is no distinction between children, regardless of where they reside (community or custody).

Providing children in the YJS with a right to vote and an opportunity to have a say in shaping the services in their community could be a powerful tool in helping shift a child's identity from pro criminal to pro social and help children lead safe and crime-free lives while making positive contributions to society.