

Commission on Justice in Wales

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Preamble:

1. This submission, written in a personal capacity, focuses on the domain of youth justice. It draws upon my work as an academic and experience as a social worker, probation officer and Cardiff County councillor (2012-2017). Currently, I sit on the Wales Youth Justice Advisory Committee, Hwb Doeth (a Youth Justice Board Cymru effective practice forum) and the Laming Review Welsh Action Plan Task & Finish Group (addressing the over-representation of Care experienced children in the youth justice system).
2. Given that Youth Justice Board Cymru will already have provided the Commission with statistical data and other evidence, I am confining my submission to just a few salient points. However, I have attached two documents that provide more detail on my own perspective on youth justice issues. The first, a co-authored chapter on Criminal Justice in Wales (Evans *et al*, 2017), contains a passage (pages 6-15) on children's rights and youth justice in the Welsh context. The second is a co-authored journal article that reflects on the impact of a youth justice Review in Jersey (Evans *et al*, 2015). This may be of interest because Jersey is a small jurisdiction and there may be some lessons that are applicable to the Welsh context. Since the publication of the article there has been a Care Review that was critical of Jersey's Children's Services and public care system. It was against this background that another Youth Justice Review was commissioned in May of this year. The Review is due to report before the end of 2018. I am privileged to be involved in the current Review and can report that the possibility of enshrining some changes in statute is being considered. Whilst many positive changes and reforms do not require legislation, the judicious use of well-drafted statutes in conjunction with clear protocols and lucid written guidance can help to maintain standards and avoid lapses in best practice.

Key Issues:

3. Under the current constitutional settlement, responsibility for the core policy domains of Welsh youth justice is divided between London and Cardiff. Youth Offending Services are thus statutorily required to staff their teams with practitioners from Health, Children's Social Services and Education (all devolved) as well as Probation and the Police (both

non-devolved). Although it should be acknowledged that the creation of Police and Crime Commissioners has arguably offered a further measure of *de facto* devolution on the ground, policing still remains the responsibility of the Home Office. Given that the rationale for youth offending services was to promote ‘joined-up solutions’ to ‘joined-up problems’, the logic of devolving probation, police and the secure estate to Wales is compelling. At a practical political level, however, there are obviously issues of resourcing and capacity that should be borne in mind before any such a transfer in responsibilities is effected.

4. It is important to celebrate the successes of youth justice in Wales in such areas as the reduction of first-time entrants through diversionary measures, partnership working, and staff training in trauma-informed practice. The latter area is particularly important because those subject to Youth Rehabilitation Orders and custodial sentences are more likely to present with complex needs and challenging behaviour.
5. **The main issue highlighted in this submission relates to the need to improve the accountability of local services upon which both young people and youth offending teams rely.** If one accepts the principle that society has a collective responsibility to its children, then Youth Justice is not simply about administering criminal justice in relation to individual young people who break the law; it is also about ensuring a measure of social justice is present in their lives. Young people should certainly be called to account for their behaviour and take responsibility for their actions, but so too should the adults in their lives. This of course means parents and carers, but it should also include responsible professionals and essential service providers in such areas as Education, Training, Health, Housing and Children’s Social Services (especially in cases where the local authority is the corporate parent). When a young person commits an offence, it is an opportunity to consider whether the state has discharged its responsibilities and exercised its duty of care. It is also an opportunity to connect, or reconnect, young people to the support and services they need. Timely access to appropriate support and resources has the potential to not only exert a positive influence on the trajectories of young people, but also to reduce future demands on the public purse.
6. In Wales it could be argued that, in terms of official public policy at least, a children’s rights approach prevails. Ostensibly, this is realised through the *Extending Entitlement* policy and the incorporation of the United Nations Convention on the Rights of the Child (1989) in the

Rights of Children and Young Person's (Wales) Measure (2011) (Evans *et al*, 2017). In reality, however, there would appear to be an accountability deficit: too many young people in conflict with the law are not in education or training; and too many are not receiving the health care – including mental health care – they require. In short, too many young people are not accessing the services, supports and opportunities to which they are entitled. In times of austerity it is understood that resources will be stretched. The concern articulated in this submission, however, is that there are no effective mechanisms of accountability in place to ask why appropriate services are not being provided. Why, for example, is a local education authority not meeting its statutory responsibilities to a child? Currently, there is no straightforward way of requiring a Headteacher to explain why a young person is not being engaged meaningfully. Searching questions could also be asked of Health and Children's Social Services. Recommendation 18 of the Lammy Review (2017) makes a similar point about calling local services to account in the Restorative Justice context. The creation of Local Justice Panels to address this accountability deficit is mooted. The precise form Local Justice Panels might take is worthy of further thought and consultation. Such Panels could certainly have wider applications and terms of reference than that envisaged by the Lammy Review.

7. If we are serious about entitlements-based children's policy and rights-based youth justice, then we need practical confirmation that these rights and entitlements are more than pious hopes and aspirations. If rights and entitlements are actually rooted in domestic law and international conventions, then we need to think about how they can be operationalised in practice. Consideration should not only be given to the design of these mechanisms of accountability, but also how young people's voices and best interests can be best represented (whether this is through advocacy schemes or other means). These issues needs to be addressed at every stage: prevention; diversion from the courts through Bureau, Triage and other models; community-based orders; the secure estate; and the provision of 'through the gate' services.

Concluding Comments:

8. Should the Commission require clarification or further information on any aspect of this submission, please do not hesitate to contact me.

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References:

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Lammy Review (2017) *The Lammy Review: An independent review into the treatment of, and outcomes for, Black, Asian and Minority Ethnic individuals in the Criminal Justice System*, September 2017, <https://www.gov.uk/government/publications/lammy-reviewfinal-report>