

**Prison Reform Trust response to the Justice Committee Inquiry
the future of the Youth Justice Board and youth offending teams
September 2011**

The Prison Reform Trust is an independent UK charity working to create a just, humane and effective prison system. We do this by inquiring into the workings of the system; informing prisoners, staff and the wider public; and by influencing Parliament, government and officials towards reform. We welcome the opportunity to make a submission to the Committee.

SUMMARY:

The Prison Reform Trust welcomes the Justice Committee's decision to hold a brief inquiry into the future of the Youth Justice Board and youth offending teams and is pleased to be able to respond. The proposed abolition of the Youth Justice Board notwithstanding, the youth justice system has seen significant change in recent months: reductions in funding from both central and local government, coupled with changes to reporting mechanisms and the increasing influence of the localism agenda, have brought with them both challenges and opportunities. At the same time, the focus on reducing the number of first-time entrants and children sentenced to custody has paid dividends, with substantial cost-savings for central government and statutory agencies. The Prison Reform Trust is opposed to the abolition of the Youth Justice Board because we feel it will inevitably weaken leadership and the knowledge base in this important policy area. If the YJB is to be abolished, the Prison Reform Trust would welcome clarification of the framework and safeguards which will replace it.

What impact, if any, have changes to national governance arrangements for youth justice had on the Youth Justice Board and youth offending teams?

1. The proposal to abolish the Youth Justice Board (YJB) would mark a significant change to national governance for youth justice – however, changes to date, including the scrapping of youth justice-oriented performance indicators, the split from the Department for Education, and the increasing influence of the localism agenda, have already impacted on youth offending teams and the YJB.
2. Whilst doubtless a bureaucratic tool, the national indicator set (part of the Comprehensive Area Assessment framework) provided a means for central oversight of

local performance and helped to focus minds at a local level on priorities. It also encouraged transparency on outcomes enabling some comparison across different areas at a local and regional level. The youth justice indicators, particularly those measuring custodial sentencing, BAME disproportionality and offending by looked after children, helped to shine a light on local practice and went some way to incentivising improvements by enabling central government and other stakeholders to hold local authorities to account. Without them, and with the increasing influence of the localism agenda at a time of fiscal constraint, there is a danger that low-priority and minority groups will not receive the attention and support they need. That there are now fewer levers for holding local authorities to account on the outcomes of children in care, for example, is of particular concern.

3. The proposal to abolish the YJB set out in the Public Bodies Bill would mark a major change to youth justice governance. If the main functions of the YJB were taken over by the Ministry of Justice, it is essential that there remains a unit or directorate dedicated to children. The UN Convention on the Rights of the Child classifies all those under the age of 18 as children and states that the justice system should treat children differently to adults. In order to abide by this, staff, resources and management within the Ministry of Justice must be dedicated to children. This also means that officials should have and have access to expertise and advice on vulnerable children and be mindful of the importance of meeting the welfare needs and the rights of children involved in the criminal justice system.
4. We are particularly concerned that two current responsibilities of the YJB – commissioning a distinct secure estate, and placing under-18s in custody – should be fulfilled by Ministry of Justice staff working within the Youth Justice Unit/directorate, rather than within the National Offender Management Service. Whilst commissioning and placement in the juvenile secure estate should remain the responsibility of central government, children’s needs are distinct and are not well met by current provision in young offender institutions (YOIs). The secure estate team within the Ministry of Justice must be separate from those dealing with adult custody, so they have the independence needed to make custody truly appropriate for the needs of vulnerable children. Without these measures there is a risk that, over time, authority, dedicated budget and single-focus priority on under-18s will be lost and services and outcomes for children and their families will suffer.
5. The Prison Reform Trust is concerned that the needs of children in trouble may not be best-served by bringing youth justice into central government, given the decision to place responsibility for youth justice solely with the Ministry of Justice (rather than sharing it with the Department for Education as previously) and the lack of traction on women offenders and other distinct groups in the criminal justice system (young adults in particular).

6. Finally, we understand that the proposed abolition of the YJB has also raised concerns with youth offending team managers for its likely impact on workforce development. The YJB has invested heavily in training for YOT staff, sponsoring a professional certificate in effective practice and a youth justice degree through the Open University, as well as interactive learning modules. This focus on creating a skilled workforce is credited with contributing towards reductions in reoffending, first-time entrants and numbers sentenced to custody. If responsibility for workforce development falls to individual YOTs, it is difficult to see how this focus might be maintained consistently across England and Wales.

What impact, if any, have changes to funding arrangements had on youth offending teams?

7. Youth offending teams are funded via two main revenue streams – central government (through the YJB) and local authorities. Changes to funding arrangements have had a significant impact on their ability to provide high quality services which deliver on the central aim of the youth justice system: preventing offending by young people¹. In 2011/12, youth offending teams in England faced average budget cuts of 20% - in London, this rose to 23%, with some YOTs having to contend with cuts of up to 30%. Whilst reductions in funding on this scale are inevitably in and of themselves challenging, they have been compounded by the way in which funding decisions were made and communicated – initially told to expect funding reductions of 10%, decisions on the final funding settlement were delayed, making it difficult for local authorities and youth offending team managers to plan service provision going forward. This financial uncertainty led one local authority to place the entire youth offending team workforce on it's at risk of redundancy register².
8. Originally set up as multi-agency teams including representatives on secondment from police, probation, children's services, health and education, the strength of the YOT model has been the involvement of professionals who bring with them (and take back) expertise and learning. It is therefore concerning that the context of wider budget cuts has led seconded staff from some of these agencies to be pulled from YOTs without replacement. In addition, vacancies occurring in the wider youth offending team have gone unfilled, with experienced staff seeking employment elsewhere under the threat of further redundancies. This loss of experience and expertise at a time when YOTs will be expected to do more for less, is worrying. If YOTs are to reduce offending and reoffending, they need financial certainty, continued involvement of partner agencies like health and children's services, and to be able to attract and retain those practitioners who are best able to work with, and engage, children who offend.

¹ Section 37 (1) Crime and Disorder Act 1998

² <http://www.guardian.co.uk/society/2011/mar/25/public-sector-cuts-youth-crime>

9. In this context, the loss of some funding for prevention work, the move away from ring-fencing and the reconfiguration of central government funding around early intervention have already had a significant impact on service provision:

*"All our preventative work is grant-funded and if the grants end as they are due to in March 2011 we will no longer provide preventative work."*³

10. The Prison Reform Trust is concerned that the sudden withdrawal of whole areas of work will undo much of the progress made on reducing first-time entrants and numbers sentenced to custody. Any increase in the number of children coming into the youth justice system as a result of prevention cuts will have a knock on effect on YOT costs as caseloads increase. In addition, there is a danger that cuts to funding will act as a disincentive to local areas to target resources beyond their statutory requirements – meaning that children from minority or vulnerable groups may not get the targeted support they need.

11. *"We are a small YOT...and funding enables us to perform our statutory duties...However, this is spread across the field with little opportunity to move funding around to concentrate on particular areas. With this year's cuts already impacting this is unlikely to change".*⁴

How can reductions in the number of young people entering the criminal justice system and being sentenced to custody be maintained most effectively within existing levels of funding?

12. Significant reductions in the number of first-time entrants to the youth justice system and in the number of children being sentenced to custody have been achieved in recent years. In 2007/8, the number of children entering the system for the first time was 100,201 – two years later, this had fallen 39% to 61,422. Likewise, the number sentenced to custody over the same period fell from 6,853 to 5,130 respectively, a drop of 25%⁵. To ensure these reductions are sustained and even built on, the multi-agency focus on first-time entrants and on custodial sentencing must be maintained. There are a number of ways in which this can be delivered, incorporating practice and legislative change.

13. The focus on diverting first-time and minor offenders out of the youth justice system through triage schemes in police stations has played a significant role in delivering a 44% reduction in first-time entrants since 2007⁶. It is hoped that funding for the 31 youth justice liaison and diversion pathfinder sites unveiled by the Department of Health earlier this year will build on this success by identifying, assessing and diverting

³ <http://www.nao.org.uk/idoc.ashx?docId=f754ef61-28d7-43cf-a29b-8d4365960648&version=-1>

⁴ <http://www.nao.org.uk/idoc.ashx?docId=f754ef61-28d7-43cf-a29b-8d4365960648&version=-1>

⁵ All data from Youth Justice Board Annual Workload Data.

⁶ National Audit office (2010) *The youth justice system in England and Wales – reducing offending by young people* NAO: London

vulnerable children out of the youth justice system and in to appropriate other services⁷. The focus on reducing first-time entrants has been driven by the consensus among agencies and experts, that keeping children out of the system will deliver reductions in youth crime further down the line because informal and non-criminal justice oriented interventions are more likely to *“curtail the development of a delinquent career more effectively than a formal reprimand final warning or prosecution over time.”*⁸

14. To promote sentencer confidence in community alternatives to custody it is vital that existing sentencing options are made available in every area. The Youth Rehabilitation Order, the generic community sentence introduced in 2009, provides sentencers with a choice of 18 different requirements, including supervision, curfew, specified activities and unpaid work, which can be attached depending on individual circumstances. The most robust of these requirements, Intensive Fostering and Intensive Supervision and Support (ISS), were designed specifically as alternatives to custody. Despite positive evaluation⁹, funding restrictions have meant that, whilst in theory offered nationwide, in practice the availability of intensive fostering placements is limited, and anecdotal evidence suggests limitations to the number of ISS places available at any one time in certain areas.
15. One way of ensuring community alternatives are adequately financed, and of incentivising innovation and locally-focused solutions to offending, would be to build on the YJB's youth justice reinvestment pathfinder initiative by making all local authorities (or consortia of authorities) responsible for the costs of child imprisonment. At present, the costs of delivering prevention services and community sentences delivered by YOTs are borne in the main by local authorities, whilst the costs of custody are met centrally, leading to a potential mis-match in prioritisation. Following the justice reinvestment model, the pathfinder pilots are designed to encourage investment in prevention services and innovation in delivery, leading to a *“reduction in demand on the youth justice system, delivering savings to the Ministry of Justice and wider agencies through decommissioning custodial establishments”*¹⁰. In addition to delivering reductions in the numbers being imprisoned, it is likely that targeted local investment in prevention and intervention services would also impact on first-time entrants and numbers involved in the youth justice system more widely.
16. As identified by the National Audit Office, the youth justice system could deliver better results for less money by ensuring that interventions used in the community and in custody are supported by a robust evidence base. At present, *“there is little robust information...about which activities are likely to be most effective in preventing*

⁷ http://www.dh.gov.uk/en/Publicationsandstatistics/Lettersandcirculars/Dearcolleagueletters/DH_124767

⁸ Rob Allen (2011) *Last Resort: exploring the reduction in child imprisonment 2008-11* PRT: London

⁹ Youth Justice Board (2010) *A report on the intensive fostering pilot programme* YJB: London

¹⁰ <http://www.justice.gov.uk/downloads/guidance/youth-justice/reducing-re-offending/YouthJusticeReinvestmentPathfinderInitiativeinformation.pdf>

offending, or reducing the risk of further offending”¹¹. The lack of an evidence base for what works with children who offend suggests that there is scope for improvement to existing outcomes around offending rates, compliance¹² and participation. Building an evidence base on interventions which are most likely to reduce offending and reoffending would also aid the dissemination and promotion of examples of good practice.

17. In addition to improving practice and effectiveness, raising the custody threshold would guarantee a reduction in the numbers sentenced to custody by reserving imprisonment for the most serious or violent offences (see [Raising the custody threshold](#), the Standing Committee for Youth Justice (SCYJ) paper for further information). At least a third of the children who are imprisoned at any one time are there for non-violent offences¹³, suggesting there is some scope for the numbers sentenced to drop further.
18. If the YJB is abolished in line with proposals in the Public Bodies Bill, there is a risk that it’s focus in recent years on reducing first time entrants and on numbers sentenced to custody could be lost. The YJB has done much to tackle overuse of custody, identifying and supporting YOTs with disproportionate custody rates, creating toolkits to aid local data interrogation, and initiating support programmes to address factors (such as breach and remand) driving local use of custody. Since 2009, it has also written to local authority chief executives making them aware of their custody rates and, along with the Chair of the Magistrates Association’s Youth Courts Committee, to youth court panel chairs with information on other YOTs custody rates for comparison. If the functions of the YJB are subsumed within the Ministry of Justice, it is difficult to see how this information-sharing exercise, or indeed any proactive engagement of sentencers, could continue.
19. In addition, doubt has also been cast on the assumption that the YJB’s abolition will lead to significant cost savings¹⁴. In this context, given the significant financial implications that an increase in use of custody for under-18s would have on the youth justice budget (with expenditure on the secure estate accounting for 38% of the 2009-10 youth justice system budget), there are significant risks associated with any transfer of YJB functions to the Ministry of Justice on cost grounds alone.
20. For further information on how the reduction in numbers sentenced to custody has been achieved we would draw the Committee’s attention to the recent Prison Reform Trust report *Last Resort*, an analysis of the drivers behind the reduction in child

¹¹ National Audit Office (2010) *The youth justice system in England and Wales – reducing offending by young people* NAO: London

¹² Hart, D. (2011) *Into the breach: the enforcement of statutory orders in the youth justice system* PRT: London

¹³ Youth Justice Board (2011) *Youth Justice Statistics 2009/10* MoJ: London

¹⁴ Youth Justice Board (2011) *Response from the Youth Justice Board for England and Wales to the Ministry of Justice consultation on reforms proposed in the Public Bodies Bill* YJB: London

imprisonment since 2008 by Rob Allen. A copy has been submitted to this Inquiry as supplementary evidence.

21. Whilst not overtly included in the terms of reference for this Inquiry, the Prison Reform Trust would also like to draw the Committee's attention to a number of additional concerns: the overuse of custodial remand for children; and support for young adults in the criminal justice system.
22. At present, approximately a quarter of the child custodial population is imprisoned on remand, significantly higher than the adult prison equivalent. With 61% of children remanded subsequently acquitted or given a community sentence¹⁵ there is significant scope to deliver further reductions in the child custodial population by limiting unnecessary child remands. Proposals to devolve the remand budget to local authorities put forward in the Legal Aid, Sentencing and Punishment of Offenders Bill currently before Parliament could encourage local authorities to invest in community alternatives to remand such as supported accommodation, effective bail support and the extension of the diversionary triage scheme to police decisions on bail, which has proven successful in Hull.
23. The Prison Reform Trust also believes that the Government must do more for young adults in the justice system – in June 2011, there were 7,927 18-20 year olds in custody¹⁶. Given their age, maturity and life circumstances, the support needs of most young adults are closer to those of children than adults. We believe these needs could better be met by youth offending teams than probation trusts and are calling for the age remit of YOTs to be extended upwards. We appreciate local authorities are unlikely to want the burden of additional responsibility without commensurate funding from central government. If the Ministry of Justice cannot be persuaded to back this reform, we hope Ministers will at least require all Probation Trusts to have dedicated young adult teams, and ensure much closer joint working between these officers and local YOTs.
24. Finally, we would also draw the Committee's attention to the Intensive Alternative to Custody (IAC) pilot schemes which have grown out of the growing awareness that community sentences are more effective than short prison sentences at reducing reoffending. We believe the IAC, a robust community order, has the potential to significantly reduce the number of 18-20 year olds who are sentenced to custody and are calling for it to be made available in all areas.

¹⁵ HC Deb, 5 September 2011, c297W

¹⁶ Ministry of Justice (2011) *Offender Management Statistics Quarterly Bulletin January to March 2011*, England and Wales MoJ: London

25. Introduced in 2008, IAC orders were focussed on offenders for whom short sentences had already proven ineffective and others whose offences were serious enough to leave them facing custody for the first time. Designed to provide intensive support to prevent offenders from drifting back into past patterns of behaviour, they combine supervision with three or four statutory requirements, such as mentoring, training, and employment, with swift decisive sanctions for non-compliance. Piloted across seven areas, Manchester Probation Trust have tailored it specifically to the needs of young adult offenders, achieving very good compliance rates, with early indications that it has been successful in reducing reoffending rates. Experienced probation officers describe it as the first real opportunity that they have had to create a package of requirements that will change offending behaviour. Local magistrates are very supportive of the model and HM Inspectorate of Probation has specifically commended the Manchester team's work.