



**Supporting young people
in youth justice settings**

Introduction

The youth justice system in England and Wales has many different strands. It incorporates

- work to prevent offending and reoffending by under-18s,
- the processes by which children and young people are prosecuted for, convicted of and punished for crimes,
- work to improve outcomes for young people who have had contact with the youth justice system, as well as for the wider community.

Introduction

There are different parts and services within youth offending which we will explain over the next few pages.

These include the:

- Youth Justice Board (YJB)
- Youth Custody Service (YCS)
- Ministry of Justice
- Youth Offending Teams (YOTs)

Youth Justice Board

The youth justice system in England and Wales is overseen by the Youth Justice Board (YJB), a non-departmental public body operating at arms-length from ministers. Its primary function is to monitor the operation of the youth justice system and the provision of youth justice services.

It has a legal duty to:

- advise the Secretary of State on matters relating to the youth justice system
- identify and share examples of good practice
- report on how the system is operating and how the statutory aim to prevent offending by children and young people can best be achieved.

Its strategic direction is set by its Board, which is appointed by the Secretary of State and formed of experts in education, health, local authorities, policing, the magistracy and the voluntary and private sectors.

Youth Custody Service

The Youth Custody Services (YCS), which sits within Her Majesty's Prison and Probation Service (HMPPS), is a new body responsible for the youth secure estate, managing and rehabilitating children in custody.

The YCS is a distinct arm of HMPPS, with a dedicated director accountable directly to the Chief Executive and working closely with the Chair of the YJB. This is responsible for the governance of the youth secure estate, and for deciding where a young person will be placed if they are given a custodial sentence.

Ministry of Justice

The Ministry of Justice has responsibility and accountability for commissioning youth custody services. Together with the YJB, it sets clear standards for the provision of youth justice and will be responsible for intervening decisively to address poor performance.

Youth Offending

Youth Offending Teams (YOTs) are partially funded by the Government's youth justice grant, in addition to funding from councils themselves and statutory partners, and deliver elements of the youth justice system at a local level. These are generally hosted by the local council (county, in two tier areas), although in some authorities they are supported by agencies such as the police or the office of the police and crime commissioner.

Youth Offending

Statutory partners to YOTs are the local authority (responsible for ensuring the partners work together to deliver effective youth justice provision), education, police, health, and the National Probation Service.

YOTs are separate from the courts, though they work in close partnership with them. They carry out the council's responsibilities for:

- local youth crime prevention
- supporting young people at the police station and in court
- supervising young people serving a community sentence
- staying in touch with young people if they're sentenced to custody.

Her Majesty's Inspectorate of Probation leads on multi-inspectorate inspections of YOTs, while children's services are inspected by Ofsted (in England), and the Care and Social Services Inspectorate Wales.

About Youth Courts

Children who are not diverted from the justice system can end up in the courts. They can be tried in either the youth courts, adult magistrates courts or the crown court. Youth courts in England and Wales are held in magistrates court buildings. Some have dedicated youth courtrooms, but most use adult courts.

Children can be between the ages of 10 and 17. Sometimes 18-year-olds will appear if their case began before their 18th birthday or if they are accused of breaching a referral order imposed before they turned 18.

About Youth Courts

Youth Courts differ from Adults courts as they are not open to the public. Unless a child is deemed particularly dangerous or has been remanded – sent to custody while awaiting trial or sentencing - they should appear in the main part of the courtroom rather than behind bulletproof glass in the dock. In practice, children often also appear in the dock if they have been arrested on a warrant and brought in from a police station overnight.

About Youth Courts

Cases are either heard by a youth court bench of three or occasionally two magistrates trained in youth justice, or a district judge sitting alone. Magistrates are assisted on matters of law by a legally trained clerk who advises on the sentencing options available to them in each case. No one wears a wig or a formal gown, unlike in the adult crown court.

Children are tried at the crown court in the cases of murder, serious firearms offences, some violent or sexual offences, some crimes related to terrorism or anything that would carry a realistic probability of a custodial sentence of more than two years. They also often appear in the crown court if they are accused alongside adults.

Detention and training order

Youth court magistrates or district judges have the power to sentence children to up to two years on a “detention and training order”, which means the child spends half of the sentence in custody, in a secure training centre, secure children’s home or young offenders institute; and half outside, under the supervision of the local youth justice service.

Children aged 10 and 11 cannot be placed in custody, and there is a prohibition too for those aged 12 to 14 who are not persistent offenders. Custody should be used as a last resort and sentences cannot be less than four months, on the basis that short sentences are ineffective and damaging to children.

Youth referral order

Far more often, children are given a youth referral order, a community sentence in which the court “refers” the child to a youth offender panel convened by volunteer members of the community and held at an informal venue. For subsequent offences they can be given a more onerous youth rehabilitation order, which can include one or more of 18 requirements that the offender must comply with for up to three years. Usually this will incorporate some sort of unpaid work and will require them to take up certain activities, and they may be subject to a curfew using an electronic tag.

Youth referral order

The court can occasionally include a fostering requirement as part of the order, which will require the child or young person to reside with a local authority foster parent for up to a year. If the child has done something so serious they need to be imprisoned for longer, they will be committed for sentence at the crown court. Children cannot normally be given life sentences. The mandatory sentence for a child convicted of murder is detention at her Majesty's pleasure, which carries a minimum term of 12 years. The youth court can also impose orders on a child's parents.

Absolute discharge

The least serious sentence passed in the youth court is an absolute discharge, in which no further action is taken but the child still has a criminal record. There is also a conditional discharge, in which no further action is taken unless they commit a further offence within a timeframe decided by the court, which must not be longer than three years.

If a child has been given a detention and training order of six months or less it becomes “spent” 18 months after the sentence is completed. If their sentence was for more than six months then it will take two years. Some of the most serious convictions, such as rape and murder, remain on record and a child offender will have to continue declaring it to future employers for the rest of their lives.

Advocacy issues

As an advocate working within secure settings, you may find the following issues are common:

Liaising with professionals

Advocates are sometimes the link between the child or young person in custody and their support network locally. The task for the advocate may therefore be to support the young person to have their concerns or wishes and feelings acknowledged and acted upon by other professionals such as their social worker.

Advocacy issues

Bullying

Similar to within schools, bullying can be a big issue for children and young people in the secure estate and advocates are often called upon to support young people to report and tackle bullying.

Education

Young people who are held within secure settings are still required to attend education and receive educational support. You may need to help a young person think about what education or training they would like to complete and push the provider to make sure this is offered.

Advocacy issues

Legal status

Young people who are looked after before going into custody do not stop being looked after when they are placed in custody: Local Authorities still retain their corporate parenting duties and must continue to review the care the young person receives. In practice however, many looked after children find their legal status changes when they are in custody and their looked-after status is not re-started when they are released.

The result is that some groups of looked-after children and young people can be denied safeguards, rights and standards of service which they are entitled to receive. (NACRO, 2002).

Advocacy issues

Safeguarding

Young people who are held in youth offending institutions are at risk of institutional abuse and can suffer unfair and abusive treatment. There have been a number of inquiries and reports into physical and sexual abuse have been published which capture serious concerns into the safety of young people:

- Medway Secure Training Centre (STC) Serious Case Review
- Sexual Abuse of Children in Custodial Institutions 2009-2017
- Ofsted report into Rainsbrook in 2021 which found it to be inadequate

Advocacy issues

Safeguarding

The culture of these institutions, particularly their closed nature and focus on containment and control, has not provided an environment that protects children from either physical or sexual abuse. Many witnesses supported this view, with a former Chief Inspector of Prisons describing children in custody as “very vulnerable children in a very dangerous place”.

As an advocate, you play a critical role in listening to children and young people, helping them to raise concerns and also in raising concerns on their behalf where you witness concerning behaviour or treatment.

Advocacy issues

Planning for release: discharge planning meeting

The law requires that a planning meeting is carried out to prepare for the release of a young person back into the community. The planning discharge meeting is therefore a key area that advocates support children and young people. In keeping with the principles of advocacy, a good advocate will ensure that they have given the time to get to know the young person ahead of the meeting to establish their wishes and feelings, and their preferences for the advocates support.

Managing risk and safety

As an advocate working within secure settings, you will need to think carefully about risk and safety. This means being much more aware of security issues than you would need to do if providing advocacy in the community or other settings.

For an advocate to work in youth offending institutions, you will need to complete the security training which may include break away training, reporting security risks and working safely.

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