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CC Andrew Selous
Parliamentary Under Secretary of State
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By Email

28 August 2015

Re: Proposal to reduce the Youth Justice Board's expenditure in 2015/16: consultation paper

I am writing to respond to the to the above consultation document, published by the Youth Justice Board on 26 August 2015, and I am doing so in the form of a letter as I believe that this better allows me to outline my concerns as to the implications of the proposed reductions in expenditure than the Consultation Response Form provided.

The primary function of the Children's Commissioner, under the Children and Families Act 2014, is promoting and safeguarding the rights of children in England, with particular regard to children who are living away from home and those are at particular risk of having the rights infringed. Given the compulsory nature of youth justice interventions, children who come to the attention of criminal justice agencies are all potentially at risk of not having their rights fully met. There is ample evidence too that all children in contact with the youth justice system might reasonably be considered vulnerable: children from disadvantaged backgrounds, with a history of care, deriving from minority ethnic

communities, experiencing mental ill health or learning disability, are all significantly over-represented in the youth offending population.¹ The large majority of children entering the youth justice system spend at least some time detained away from the familial home while at the police station and several thousand each year are deprived of their liberty when subject to custodial remand or sentencing. This latter group in particular is extremely vulnerable on a wide range of measures.²

Given the above, it is clear that the potential implications of budgetary reductions for children in trouble are a legitimate concern for the Children's Commissioner. I would like to focus, in particular, on three aspects of the proposals to reduce the Youth Justice Board's expenditure by £13.5 million within the current financial year.

1. Proposal to find £9 million of savings from the Youth Justice Grant

The Consultation document proposes that the bulk of the £13.5 million savings are to be found through a £9 million reduction in the youth justice grant. This is effectively a central government contribution to the overall resourcing of youth offending teams (YOTs) who constitute the principal mechanism for the delivery of community based youth justice services.

It is clearly not possible to ascertain at any level of detail how YOTs would make the proposed savings, which would be a matter for local determination. It is however clear that the extent of the proposed reduction would considerably compromise YOT's ability to deliver services at the current level.

£9 million represents roughly a 10.5 percent reduction on the anticipated 2015/16 grant allocation. This needs to be seen in the context of the fact that the grant has in any event fallen by 43 percent since 2009/10.³ Moreover, given that half of this year's central funding has already been paid to YOTs, the impact of the cutback will be considerably greater since much of anticipated second instalment will already have been predicated.

One of the likely outcomes of in year reductions to YOT budgets of the magnitude proposed is that staff working face-to-face with children are very likely to be subject to redundancy at short notice. Our work to elicit the views of children in relation to their experiences as recipients of public services confirms that they value consistent

¹ See for instance, Yates, J (2010) 'Structural disadvantage: youth, class, crime and poverty' in Taylor, W, Earle, R and Hester, R (eds) *Youth Justice Handbook*. Cullompton: Willan

² See for example, Jacobson, J, Bhardwa, B, Gyateng, T, Hunter, G and Hough, M (2010) *Punishing disadvantage: a profile of children in custody*. London: Prison Reform Trust and Prime, R (2014)

Children in Custody 2013–14: an analysis of 12–18-year-olds' perceptions of their experience in secure training centres and young offender institutions. London: HM Inspectorate of Prisons
An analysis of 12–18-year-olds' perceptions of their experience in secure training centres and young offender institutions

³ Derived from Ministry of Justice/ Youth Justice Board (2015) *Youth Justice Annual Statistics 2013/14*. London: Ministry of Justice

relationships with professionals above all else.⁴ There is moreover considerable evidence that effective work within youth justice is predicated upon high quality and consistent relationships that aim to promote recovery, a sense of agency and reintegration.⁵ The immediate impact of the grant reduction is therefore likely to be to disrupt the frameworks of relationship and trust between staff and children that have developed within YOTs that ensure the delivery of good outcomes for children and their communities.

Considerable advances have been made in recent years within youth justice leading to dramatic reductions in children entering the youth justice system for the first time, a sharp fall in detected youth crime and a welcome decline in the child custodial population. In this context the statutory youth justice workload has contracted. Nonetheless, it is clear that YOTs have realigned their diminishing resources to focus increasingly on prevention. One recent review of YOTs' work confirmed that at least three quarters undertook preventive activities with children who were at risk of entering the youth justice system and their families.⁶

Moreover, there is good evidence that this shift to prevention has been a critical contributor to the recent progress that has been made in youth justice. The recent Government commissioned stocktake of youth offending teams confirms that YOTs who undertake such prevention work have fewer first time entrants than those that do not and acknowledges that 'it can be reasonably hypothesised' that such activities have had a positive influence of the falls in detected youth crime and custody. The report continues that:

'reducing central government funding without understanding the potential impact risks undermining the successes achieved by the youth justice system in recent years'.⁷

In a similar vein, Linn Hinnigan, Chief Executive of the Youth Justice Board has stated that the proposed extent of the cuts in the YOT grant risks leading to:

'a reversal of the positive trends we have seen over recent years. This would see more young people coming in to the system; rising costs for police, courts and other justice agencies and, ultimately, risk increasing custodial populations which would mean new places in secure establishments must be commissioned.'

In their 2015 submission to the United Nations Committee on the Rights of the Child, the four Children's Commissioners of the UK registered concern about the impact of reduced public spending on the most vulnerable children, leading to:

⁴ See for instance, Children's Commissioner for England (2015) State of the Nation – report 1. Children in care and care leavers survey 2015. London: Children's Commissioner

⁵ McNeill, F (2006) 'Community supervision: context and relationships matter' in Goldson, B and Muncie (eds) *Youth crime and justice*. London: Sage

⁶ Deloitte (2015) *Youth offending team stocktake*. London: Ministry of Justice

⁷ Ibid

‘reduced provision of a range of services that protect and fulfil children’s rights including health and child and adolescent mental health services; education; early years; preventive and early intervention services; and youth services’.⁸

The current proposal inevitably exacerbates such concerns. In terms of the impact on children and children’s rights and life chances, the risks associated with the suggested budget reductions to YOTs appear to be considerable.

There is compelling evidence that keeping children out of the formal criminal justice system reduces levels of youth crime in the longer term and are cost effective. A recent systematic review of 29 randomised controlled trials demonstrated the criminal justice process increased delinquency. Undermining prevention in this context, is a false economy since:

‘Even if the diversion programme were more expensive than system processing, which may not be likely, the crime reduction benefit associated with the diversion programme would likely persuade any cost-benefit analysis to favour the implementation of diversion programmes.’⁹

Moreover, children with a criminal record find it considerably harder to find employment and suffer from a range of adverse outcomes by comparison with their peers, as they make the transition to adult life. The social costs of undermining recent reductions in the number of children entering the justice system are accordingly significant.

The UN Convention on the Rights of the Child requires that the use of custody for children should be a last resort. Moreover, outcomes for children leaving custody are particularly poor.¹⁰ I am therefore extremely concerned at the prospect that cuts in the youth justice grant might lead to a rise in the number of children in custody.

2. Proposal to save £0.8 million though pausing roll-out of the Minimising and Managing Physical Restraint training programme (MMPR)

Managing the behaviour of children in custody in a manner that minimises the use of force and, where force is deployed, does so in a safe manner is extremely challenging given the vulnerabilities and previous traumatic experiences of children in custody. This challenge has arguably become more difficult as the numbers of children in the secure estate custody have declined, leading to a concentration of the custodial population in fewer institutions, further away from home.¹¹ This is reflected in a significant rise in the level of

⁸ UK Children’s Commissioners (2015) *Report of the UK Children’s Commissioners UN Committee on the Rights of the Child: Examination of the fifth Periodic Report of the United Kingdom of Great Britain and Northern Ireland*

⁹ Petrosino, A, Turpin-Petrosino, C and Guckenburg, S (2010) *Formal system processing of juveniles: effects on delinquency*. Olso: The Campbell Collaboration

¹⁰ Bateman, T, Hazel, N and Wright (2013) *Resettlement of young people leaving custody: lessons from the literature*. London: Beyond Youth Custody

¹¹ See for instance, HM Chief Inspector of Prisons (2015) *HM Chief Inspector of Prisons for England and Wales Annual Report 2014–15*. London: HMIP

violence within young offender institutions (YOIs), which per head of population more than doubled between 2009/10 and 2013/14.¹²

Within that sector there has, over the same period, been a corresponding rise in the use of restraints (restrictive physical interventions) of children.¹³ The development of Minimising and Managing Physical Restraint (MMPR) was triggered by a recommendation of an Independent Review of restraint in Juvenile Secure Settings.¹⁴ The review itself was established following the deaths of two children in secure training centres in 2004. Gareth Myatt who was 15 years of age at the time, measured 4 foot 10 inches and weighed less than seven stone. He died while being restrained by three members using what was at the time an approved hold. Adam Rickwood, 14 years of age, took his own life shortly after being restrained using an approved pain compliance 'nose distraction' technique.

Following the Independent Review, the government established a Restraint Advisory Board which reported in 2011, recommending the implementation of a new system of restraint which has become known as MMPR.¹⁵ The Independent Restraint Advisory Panel was subsequently tasked with overseeing the implementation of MMPR which included rolling out of an extensive training programme to staff in YOIs and secure training centres.

While the Children's Commissioner continues to have reservations about the ongoing use of some techniques, it is clear that MMPR is intended to reduce significantly the necessity of using restrictive physical interventions and to minimise the risk to children where such interventions are used. It has constituted a considerable improvement over previous arrangements and delivered safer regimes for children as manifested in the fall in the proportion of injuries from restraint categorised as serious.¹⁶ In this context, I find it surprising, and deeply concerning, that one of the proposals for budgetary reductions, making savings estimated at £0.8 million, should be to delay roll out of the training programme to a YOI.

3. Savings from demand changes in SCHs

Secure children's homes (SCHs) accommodate the most vulnerable children, and the youngest children in custody in the youth justice system. They are considerably smaller than secure training centres and, in particular, YOIs and enjoy significantly higher staff to child ratios. There is evidence that they deliver extremely good educational outcomes.¹⁷

The Children's Commissioner's forthcoming report on isolation in the secure estate for

¹² Ministry of Justice/ Youth Justice Board (2015) *Youth Justice Annual Statistics 2013/14*. London: Ministry of Justice

¹³ Ibid

¹⁴ Smallridge, P and Williamson, A (2008) *Independent Review of restraint in Juvenile Secure Settings*. London: Ministry of Justice and Department of Children Schools and Families

¹⁵ Restraint Advisory Board (2011) *Assessment of Minimising and Managing Physical Restraint (MMPR) for the Children in the Secure Estate*. London: RAB

¹⁶ Ministry of Justice/ Youth Justice Board (2015) *Youth Justice Annual Statistics 2013/14*. London: Ministry of Justice

¹⁷ JusticeStudio (2014) "They helped me, they supported me." *Achieving Outcomes and Value for Money in Secure Children's Homes*. London: JusticeStudio

children will show that SCHs provide the most suitable physical environment and, in comparison with YOIs, do not rely on periods of isolation of long duration as a method of behavioural management, which can have negative consequences in terms of the impact on mental health, access to education, purposeful activity and other aspects of the children's normal routine.

The Children's Commissioner considers that the decline in the child custodial population represented an opportunity to accommodate a higher proportion of children in these smaller, child care, establishments, particularly given evidence that the imprisoned population is increasingly vulnerable. However, the number of places contracted by the Youth Justice Board in SCHs, which already constituted a very small proportion of the total custodial provision, has shrunk, from 191 in 2010 to 138 in 2015.¹⁸

The Consultation document proposes that £0.4 should be saved this current financial year by not purchasing further beds and releasing some capacity to local authorities for children deprived of their liberty through care proceedings. I am concerned at the potential implications for the placement of very vulnerable children sentenced or remanded to custody in the coming period as there will an increased prospect of them being placed in unsuitable accommodation. I am also concerned that further reductions in the use of youth justice placements within SCHs has the potential to further endanger the viability of the sector, leading to a future shortage of suitable provision for the for most damaged and traumatised children.

Given the above I would strongly urge that the above proposals for making savings in 2015/16 are reconsidered.

Yours sincerely



Anne Longfield OBE
Children's Commissioner for England

¹⁸ DfE (2015) *Children accommodated in secure children's homes at 31 March 2015: England and Wales*. London: DfE