

**To:** Minister Lucy Frazer

**Date:** 29.05.20

**From:** Colin Allars – Youth Justice Board

**Subject:** **TO NOTE:** To provide an update on the impact of COVID-19 on the youth justice sector.

**Annexes:** Annex A – YJB Submission of 4<sup>th</sup> April 2020

## **Issue**

1. Following our submission in April, this provides an update on the impact COVID-19 on the youth justice sector.

## **Timing**

2. Urgent

## **Recommendation**

3. That you:
  - i. Note the current position relating to the youth justice sector and impact of COVID-19.
  - ii. Note that measures have been implemented to reduce the use of custody.
  - iii. Note the way the sector is developing innovative ways of working to meet the challenges presented by COVID-19.
  - iv. Note our concerns about the criteria being applied for the Emergency COVID Temporary Release scheme, and consider alternative criteria for children.
  - v. Note the challenges across the system in accessing meaningful data to help inform decision making and predict the number of children entering the system.

## **Introduction**

4. Further to our previous advice (4 April 2020) we have continued to engage with the sector in the following ways;
  - Facilitating at least fortnightly virtual meetings between Youth Offending Team (YOT) managers, Her Majesty's Courts and Tribunal Service (HMCTS) representatives, Police leads and Youth Custodial Service managers.
  - Developing a COVID-19 specific page on the YJB Effective Practice Hub that shares effective practice and includes resources to support recovery across the sector.
  - Continuing our engagement with Police Services, Youth Custody Service (YCS), Directors of Children's Services (DCS), HMCTS, and Voluntary and Community sector (VCS) groups, along with our Youth Affiliated Network of children and young people to provide national leadership, maintain service provision and safeguard children.
5. It should be noted that feedback from the sector and partner organisations has highlighted that the closer inter-agency working driven by the need to respond rapidly to COVID-19 has resulted in improved cooperation. There is a desire amongst YOTs and Statutory Partners for this to continue post COVID-19.
6. Recent YJB activity has identified the following key themes across the sector:

### **(i) Courts**

To date HMCTS have focused on the roll out of virtual courts for remand hearings, the new platform is considered technically available across approximately 80% of the YJ sector. Strong representations have however been made across the sector against the permanent move to virtual courts for children, alongside continuing concerns around the transporting of children

to courts and for those discharged from custody, and the difficulties in listing breaches for high risk cases. The numbers of outstanding youth cases in Magistrates courts are already three times as high as they were at this point in 2019. This is most acutely felt in London and the South East where 31% and 17% of cases (respectively) are outstanding. The potential for further back log and the inevitable bulge in the system will be acutely felt by community services, both justice and welfare, as we move towards recovery. This is likely to result in an increase in the number of children entering the youth justice system and ultimately in custody.

Through our national engagement we have been highlighting these current operational challenges alongside the need to ensure that any decision to use virtual technology should always be on a case by case basis subject to an assessment of the child's needs. We have developed a set of child first principles and recommended that these principles be used across all court activity to ensure that justice is swift and fair and that children's needs are identified, that they are supported, safeguarded and that their rights are upheld.

We escalated concerns about the pace at which HMCTS were developing the wider strategy for children, a view shared by other stakeholders including the judiciary, YCS and the Police, and recommended a separate governance arrangement for HMCTS' response to children be established. As a result, a specific children's issues group has been committed to. We understand that the group will be chaired by Mr Justice Davies and will extend the remit and membership of the current youth court issues group (focusing on virtual remands) to consider the wide-ranging suite of issues for children in the justice system. This group is expected sit for the first time in its new form in early June 2020.

## **(ii) Delivery landscape**

### *Community*

Children's Social care services are under increasing pressure. We know that referrals for looked after children are increasing yet placements are reducing and this both impacts on remand decisions taken by the courts and safe and appropriate accommodation for children. There is an example where a social worker slept in their office with a child as there was nowhere for them to be placed. In some areas there are questions being raised whether there is the ability of children services and local safeguarding boards to be able to respond to the increased needs of children and their families. Through our soft intelligence via our stakeholders we have become aware of four children who are subject to community services who have tragically take their own lives in the last six weeks. In addition, we are hearing that practitioners in the field are working with increased levels of homelessness, children in need and deprivation linked to access to food. We are also becoming aware of digital poverty where some of the most deprived children do not have access to IT, smart phones or indeed WIFI which is making it hard for them to be accessed and indeed for them to access support services. We know that the number of vulnerable children attending schools for education and support is significantly less than anticipated. We are also being advised of increases in violence in the home, this is born out in police data.

YOTs are reporting that children are at high risk of suffering Adverse Childhood Experiences (ACEs) during the period of lockdown due to e.g. domestic violence, child exploitation and abuse. London YOTs have highlighted that children from Black Asian and Minority Ethnic groups may be suffering disproportionality due to the higher incidence of mortality impacting of their mental health.

### *Policing*

Guidance from the National Police Chief's Council (NPCC) has been disseminated that reinforces the need to avoid the criminalisation of children through the period of lockdown and into recovery. There are positive examples of YOTs and Police working together to address individuals or groups of children breaking COVID-19 rules and taking a preventative approach raising awareness of the consequences with officers and staff encouraged to be professionally

curious to ensure that any 'hidden harm' is identified with safeguarding of children a primary concern for policing throughout this period. Local YOT management boards across England and Wales have agreed and delivered services taking account of local need and circumstances.

Gang related activity may re-emerge with strong evidence from YOTs, Police and stakeholders across the sector that gangs involved in county lines are re-evaluating their strategies e.g. use of postal services for drugs and online recruitment aimed at children to draw them into distribution. In the London area, police are carrying out targeted visits to high risk offenders which has included some children to discourage further criminal activity and YOTs are requesting to be involved where relevant using the lockdown as a "teachable moment", although there is a need for communication to be improved to make this effective. Police in London have also noted that there has been an increase in missing children who may have been drawn into crime.

YOTs are expressing concerns that the prioritisation of cases is leading to a backlog of cases building with an increasing number of children becoming subject to "Released Under Investigation" (RUI). The sharing of regional and national data on numbers of arrests and offence types including RUI, offers potential for assessing and monitoring the risk of the unnecessary criminalisation of children, risk to children and risks to the community, throughout recovery. We are working with police colleagues and the Home Office to try to secure access to this data and share it across youth justice partners to better support recovery and to enable the system to meet the pending demand.

#### *Secure estate*

The YCS has worked with YOTs and partner organisations to address issues relating to COVID-19 and maintain services to children. However, YOTs have raised concerns that communication with individual sites has been inconsistent. Some YOTs are also highlighting that they are having difficulties in contacting children in the secure estate. External stakeholders continue to raise concerns as to the quality of regime, specifically education provision and the uncertainty of longer-term impact on children of spending increased periods in their rooms.

We are seeking assurances from the YCS regarding the levels of regime delivery and that children may be spending too much time in their rooms on their own with limited access to activities. The YJB has joined with YCS to look at the lessons learnt from COVID-19 and how this can shape the future development of the secure provision. Early evidence indicates that incidence of restraint and assault have declined since lock down, which you would expect as children are having less contact with each other and staff. Although concerns remain that incidents of self-harm may rise as a result of extended periods in isolation. Consideration is being given as to whether professional or social visits can be done using virtual means post COVID-19 and what impact this will have on children.

Although the numbers of children held in the secure estate has been reducing, the YJB has worked to support the MoJ, Youth Custody Service and YOTs to further reduce numbers held in custody. We have worked with YCS to advise on their arrangements for the Emergency COVID Temporary Release (ECTR) by providing specific support and guidance on ensuring the safety and suitability of the child's release arrangements and the capacity of the Youth Offending Team to support them on release. We have also worked to resolve issues around communication with the child on release and transportation. You will know that there are currently 9 children in scope for release in the next 100 days (at time of writing 21/5/20). It is disappointing that more children are not in scope for release and that no children have been released to date.

**We would recommend reviewing the criteria being applied to children under the ECTR scheme and develop a set of criteria particularly for children rather than overlaying the criteria for adults.**

In addition to the work on ECTR, we have supported the YCS and HMCTS to identify children that are currently being held on remand within the secure estate that may be able to achieve bail if a fresh application is made to court including the use of the recently available electronic location monitoring. The rationale for this is to reduce the use of custody and promote positive outcomes when sentenced. A cohort of children charged with lower tariff offences (offence gravity 1 to 4) has been identified and the relevant YOTs will be considering whether an application for bail is appropriate. As of 12<sup>th</sup> May 2020 the number in this cohort stood at 63. A further cohort of children has been identified that is within 3 months of their 18<sup>th</sup> birthday. We will be supporting YOTs by working with HMCTS to ensure that trials and pleas take place before they reach 18 years old and can be sentenced as a child. As of 12<sup>th</sup> May 2020 the cohort number stood at 45. It is too early to evaluate the success of these initiatives but of the cohort identified one child has been sentenced to a community order and another is awaiting a bail hearing. It should be stressed that supporting children to be in the community on bail is part of core work for YOTs, what we have enabled is a more targeted approach to support the YCS and local authorities during the early part of the COVID-19 crisis. Consideration needs to be given as to how this work proceeds as the system moves in to a 'new normal'.

### **(iii) Recovery and Good Practice**

YOTs are still having to prioritise contacts with those children that are considered as high risk however they are now starting to plan expanding scope to lower risk children. Many YOT practitioners have highlighted that the lockdown period has given them a chance to increase the level of engagement with vulnerable families (including helping them to access food) and this will be a significant factor in desistance. Most contact with children and families has been virtually including referral order panels however face to face contacts have been used if the risk is deemed to be justified whilst maintaining physical distance. Practitioners have been developing innovative ways of providing positive interventions to address criminal behaviour, for example using technology where possible and if not using the post to send out newsletters and intervention materials to children to encourage positive activities.

Although initially concerns were expressed that YOT staff and those of statutory partners would be diverted on to other duties this appears not to have happened on a wide scale, except for health. To date YOT teams have been able to maintain their staffing levels; however, sickness and the need to isolate is still impacting. The sector are starting to plan to return staff to buildings in a way which is physically, emotionally and psychologically safe for, as well as children and their families. As well as starting to think of the impact of increased court activity on the delivery of their services in a new operating environment.

All YOTs have been required to submit their existing contingency plans to support our central understanding of provision. These are currently being reviewed with areas of good practice identified and disseminated throughout the sector. YOTs are now moving towards the recovery stage with COVID-19 presenting an opportunity to review service provision retaining some recent changes in practice and restoring others in the light of lessons learnt.

A good example of a recovery model is Hillingdon YOT which has adopted a three-stage model for recovery. The first stage is "Restore" considering whether the priority to bring back a service that has been on hold. The second stage is "Reinvent" which is the opportunity to reshape or deliver something differently to improve the offer to residents or more effectively meet needs. The final stage is "Retain" considering whether the priority to continue to operate in a new way as a result of testing new approaches during the crisis. This example has been widely publicised to the sector as an example of good practice and has been downloaded from the YJB Effective Practice Hub 12 times in 3 days. Another example of recovery is Wrexham