

## **Welsh Government response to the consultation on Secure College Rules**

This document sets out the Welsh Government responses to a number of the questions in the consultation. We have provided one response to Questions 19, 21-23, and 25-45 which is included at the end of the document.

We do not have specific responses to Questions 7, 12-16, and 18, respectively.

### **Introduction**

It is important to state from the outset that any changes to youth custody should adequately support the needs of young people from Wales in the secure estate and should not negatively impact or disadvantage them in any way. It is vital any education provision within a Secure College takes account of the specific needs of Welsh children and young people, including language, cultural, education, resettlement and religious needs.

In our response to the 'Transforming Youth Custody' consultation, the Welsh Government expressed its concerns about the lack of reference to how education is delivered in Wales. It is disappointing our representations to date (the response to the consultation and subsequent discussions with WG officials) on your proposed wider approach to education within a Secure College have not been taken on board.

There is an increasingly divergent approach to education in England and Wales. Whilst the proposals recognise that children and young people from Wales will have distinct educational, cultural and language needs there is no detail as to how these needs will be taken into account. It is not clear how you propose to ensure a young person from Wales in an English Secure College receives relevant, suitable and accessible education provision. Your wider approach is based solely on the education system in England. We do not believe your proposed approach would support a young person from Wales achieve their potential, address barriers to learning, support transition back into the community and reduce the risk of re-offending on release.

The proposals suggest the curriculum offer should include DfE approved qualifications. This approach will not be suitable, or relevant, to Welsh children and young people, given the introduction of new and revised GCSEs in English, Welsh and Mathematics; the Welsh Baccalaureate; A Level qualifications; foundation level programmes; recognised vocational programmes to contribute towards 'work readiness'; functional skills; preparation for apprenticeships and ongoing support to help children and young people apply for apprenticeships or continue appropriate education that will lead to an apprenticeship on resettlement.

We are pleased to see the Rule places a stronger expectation on the Secure College than the current YOI Rules. We are already aware that in too many cases, children and young people in secure establishments are not receiving their statutory entitlement to education. We believe stating minimum hours of education will help to lessen the disparity between children and young people in the secure estate and their mainstream peers, and will support re-integration into the education system on release. Priority should be given to ensure a child or young person in a Secure College is not disadvantaged in any way to that of their mainstream peers, particularly for children and young people of statutory school age.

We are in agreement that education provision within a Secure College should deliver a broad and balanced curriculum that allows children and young people to develop and apply a wide range of skills. However, the priority should be given to academic study, with a particular emphasis on the development of core skills including literacy and numeracy, vocational training and Careers information, advice and guidance in both Welsh and English to address the needs of Welsh learners in English institutions. We believe that this in turn will help tackle offending behaviour and support a child or young person to transition back into their community on release.

The provision of independent information advice and guidance is a key part of ensuring young people engage in education, training and employment on release from custody. Careers Wales provide these services to young people from Wales wherever they are in the secure estate. It is concerning that there is a lack of reference to any type of careers advice, support and guidance. Access to up-to-date, relevant and reliable information, advice and guidance is fundamental in enabling a young person to make better informed decisions. In the case of a young person in a Secure College, this approach would improve access to a wider range and higher quality of opportunities and would support safe and achievable pathways to education, training and employment on release.

Priority should be placed on delivering the best possible education provision, including effective use of information and communication technologies, consistent with security and the protection of the public and should provide access to appropriate careers information, advice and guidance services.

There is also scope for youth workers to better support young people in the secure estate. The youth work sector enables young people, of all abilities and of diverse interests, to participate in non-formal or informal learning and development. This can support young people to engage and achieve in their mainstream formalised education and support experiences and provides opportunities which the mainstream education system cannot provide. This support also needs to be readily available through the medium of Welsh to address the needs of Welsh speakers and learners in English institutions.

**1. Do you agree that there should be a Rule on the purpose and ethos of a Secure College? If so, do you consider we have captured the right priorities?**

Education is a key component of a young person's time in custody, but we believe any approach should be holistic and identify and address the totality of their needs.

The primary purpose of custody (including secure colleges) should be to reduce reoffending. This can only be achieved through effective resettlement. Education in custody is one of the ways of achieving effective resettlement but is not a solution in itself. There is no evidence to suggest an emphasis on custodial education alone will reduce reoffending rates. Instead the research shows over the past 15 years to reduce reoffending after custody depends upon getting a few key elements right, these are: -

- A smooth transition from custody to community, including focusing on resettlement throughout a sentence, early preparation for release and effective communication between the custodial establishment and home community;
- A coordinated holistic response to the multiple complex needs of offenders when in the community – this includes health (particularly mental health), education and training, and substance misuse;
- Good relationships with skilled child-focused adults.

We agree that education activities for children and young people in the Secure College should contribute to addressing offending behaviour and assist in preventing offending on release. However, the priority should be about providing tailored provision that supports young people to achieve their potential, address barriers to learning and aids transition back into the community. Many young people in custody have not been in mainstream school for some time and therefore their educational attainment level can be lower than average. Young people need an education which is best able to equip them to effectively resettle back into the community.

The priorities should cover the need to deliver a broad and balanced curriculum that allows children and young people to develop and apply a wide range of skills, in reading, writing, communication and mathematics, and target interventions to meet their individual needs. There should be a particular focus on literacy and numeracy, which we know is a significant issue for children and young people in the youth justice system. This approach should also include the needs of those wishing to access Welsh-medium/bilingual education.

**2. Do you agree there should be a Rule which ensures there is separate accommodation for girls and boys?**

Yes, we agree separate accommodation for girls and boys should be ensured.

**3. Do you agree there should be a Rule that would require the establishment of a minimum of 30 hours per week of educational activities for young people?**

Yes, we agree.

**4. Do you agree there should be Rules that would require an individual learning assessment of each young person upon entry to a Secure College and the establishment of an individual learning plan?**

Yes. We recognise the importance of undertaking individual learning assessments for children and young people in the youth justice system, and this approach has already been adopted in Wales, as it has in England.

It is important for the educational balance in custody to be tailored to the individual needs of the child or young person, many of whom would not have been in mainstream school for some time and therefore their educational attainment level can be lower than average.

The learning assessment and individual learning plan should consider the language, cultural, education, social care and resettlement needs of young people whose first language is Welsh or who have been in Welsh medium/bilingual education.

Individual learning plans should be integrated into other relevant plans focused on sentencing and resettlement post-release and should enable a seamless link to support for children and young people post release, via the Youth Offending Team, Careers services (Careers Wales), and wider multi-agency services such as the Youth Engagement and Progression Framework in Wales, to encourage and better support continued engagement and progression in education, training and employment programmes.

It is reassuring to see children and young people with special educational needs (SEN) being recognised and provided for within your proposals. However, the 'Special educational needs and disability code of practice: 0 - 25 years' issued is not necessarily relevant in the case of children and young people from Wales. For example, Education Health and Care Plans, which are replacing statements of special educational needs for English learners, are not being introduced in Wales. For the time being, the use of statements of special educational needs will continue in Wales, as specified in the Special Educational Needs Code of Practice for Wales. Furthermore, we have recently undertaken a White Paper consultation on legislative proposals for additional learning needs (ALN) which would result in the replacement of the existing system for supporting learners with SEN with one which was based on ALN. We expect to bring forward a Bill to that effect next summer (2015). We would therefore expect the operators to have specific regard to the existing Special Educational Needs Code of Practice for Wales (and any future replacement for it) when working with young people from Wales.

Linked to this, discussions between DfE and Welsh Government have been taking place on the policy approach to cross border detention for children and young people with SEN. This is to ensure reciprocal arrangements are in place to protect and advance the interests of children and young people with SEN from both England and Wales in the event they are detained at an institution in the other country. Given that a high proportion of young people in the secure estate will have SEN, we would expect the proposals for the pathfinder Secure College to reflect this partnership approach.

We know that a young person's educational experience is a significant factor in their risk of involvement in criminal behaviour and we want to ensure that all children and young people wherever they are from are supported in the best possible way to meet their individual needs. For children and young people living in Wales this would mean having access to relevant education and training provision and information, advice and guidance. We work closely with the Youth Justice Board in Wales to achieve this and together agree our expectations and requirements for the provision of education and training for children and young people in the youth justice system in Wales.

Although we support the intention behind the rules themselves we can not at this time support your proposed wider approach to the provision of education within the secure estate as it is not clear how your proposals will support Welsh children and young people now or in the future.

**5. Do you agree there should be a rule that requires that a library must be provided in Secure Colleges?**

Yes – this is an issue we have previously raised. Access to a wide range of reading material is essential to support improvements and help address high levels of poor literacy, which are recognised as an issue within the youth justice population. These libraries should also provide materials to service the needs of Welsh learners in English institutions.

**6. Do you agree there should be a Rule that requires all custodial staff working in Secure Colleges to have undergone training approved by the Secretary of State?**

Yes. We would expect the education staff to be able to address the needs of learners wishing to access Welsh-medium/bilingual education.

**7. Do you agree there should be a Rule requiring each Secure College to have a dress code policy?**

No specific comment.

**8. Do you agree there should be a Rule to ensure a young person has safe and timely access to health services in Secure Colleges?**

**9. Do you agree that there should be a Rule to ensure that Secure Colleges provide safe and timely access to healthcare professionals to undertake a healthcare assessment?**

In response to 8 and 9, children and young people in secure settings should have the same access to support and services as those in the community. The assessment of need by health and other professionals should ensure access to universal services to meet an individual's needs and which respects their dignity. It is particularly important that mental health provision is sufficient to ensure the needs of all children and young people can be met effectively, as this is a very important factor in preventing re-offending, but also in improving their wider well-being. In Wales, the Minister for Health and Social Services and the YJB published guidance in October 2014 on addressing the mental health problems of children and young people in the Youth Justice system: equivalent guidance has not yet been published in England. We would expect any Secure College built in Wales in the future to comply fully with this guidance.

**10. Do you agree that there should be a Rule setting out the facilities to be provided during the first night in custody? If so, what do you consider should be included?**

**11. Do you agree there should be a Rule which will ensure that Secure Colleges have to provide a young person with essential information on their arrival? If so, is there particular information it should specify?**

In response to questions 10 and 11, we agree there should be Rules setting out the facilities available on arrival, and that essential information should be provided. This information should be available in both Welsh and English. The young person

should not be expected to request the information in Welsh but rather it should be available in both languages without question.

**12. Do you agree there should be a rule requiring sleeping accommodation to be approved by the Secretary of State?**

No specific comment.

**13. Do you agree that there is a Rule requiring that young people are provided with bedding adequate for warmth and health?**

No specific comment.

**14. Do you agree there should be a rule to require that room sharing only occurs following a risk assessment which concludes that it would not be detrimental to the safety and well-being of a young person before any sharing of rooms occurs?**

No specific comment.

**15. Do you agree there should be a Rule on food? If so, do you agree the proposal above sufficiently covers what should be included in such a Rule?**

No specific comment.

**16. Do you agree there should be Rules on entitlement to showers?**

No specific comment.

**17. Do you agree that there should be a Rule to require the Principal to establish a visits scheme in which all young people are entitled to a minimum of one visit per week?**

Yes. Welsh Government recognises the current challenges which young people from Wales face when held in secure accommodation, as a result of the distance they are held from their families and local communities. Research has highlighted the protective effects regular visitation can offer in maintaining primary support networks, and the importance of this in alleviating some of the emotional and psychological challenges faced by prisoners during their time in custody, and in helping with resettlement upon release from custody.

**18. Do you agree that there should be a Rule requiring the Principal to devise a policy for personal communications, which would include electronic communications?**

No specific comment.

**20. Do you agree there should be a Rule to ensure that a young person can be released temporarily to support their resettlement?**

Yes. When young people are sentenced to custody, they should be detained in an environment which not only challenges their offending behaviour but is primarily working towards effective reintegration and resettlement.

Those delivering services to young people who are detained should maintain a focus on the young person's resettlement and reintegration back into the community.

Young people should be supported so they can maximise opportunities on release from custody.

**24. Do you agree there should be a Rule to allow the Secretary of State to appoint an independent person to investigate matters of concern?**

In January 2008, Estyn took over the lead from Ofsted, for inspecting education and training provision for offenders in custody and in the community in Wales.

Estyn are invited to join HM Inspectorate of Prisons to inspect Parc Youth Offending Institution (YOI) Bridgend. They report on the quality and standards of education and training using published guidance on applying "The Common Inspection Framework for Education and Training in Wales" to the inspection of custodial establishments, and also carry out inspection of purposeful activity as set out in HMIP's "Expectations".

<http://www.justiceinspectors.gov.uk/hmiprison/about-our-inspections/inspection-criteria/>

At Hillside Secure Children's home Estyn are invited by the Care and Social Services Inspectorate Wales (CSSIW) to join their team inspection and provide a separate report for education and training.

We would expect the current arrangements (HM Inspectorate of Prisons to invite HM Inspectorate for Education and Training Wales, Estyn, and any other relevant inspection body in Wales (CSSIW and HIW for example)) to undertake joint inspections of those prison establishments holding children and young people up to the age of 18 will be maintained on the introduction of Secure College in Wales.

**Questions 19, 21-23, and 25-45**

We do not have specific comments on these questions, which relate to the proposed Rules for managing behaviour, and the circumstances in which force may be used. However, the fundamental principle which has underpinned our approach to youth justice to date is treating those involved in offending behaviour, or at risk of offending, as children and young people first. This is in line with the United Nations Convention on the Rights of the Child (UNCRC). In 2011, the Welsh Government introduced the Children and Young Persons (Wales) Measure, 2011. This measure places a duty on Welsh Ministers to ensure due regard to the rights and obligations in the UNCRC<sup>7</sup>.

The principles which form part of our approach to youth justice are:

- Young people are children first, offenders second;
- Young people in the youth justice system have the same access to their rights and entitlements as any other young person;
- The voice of the young person is actively sought and listened to;
- Services focus on early intervention and holistic multi-agency support;
- Promotion of a culture where identifying and promoting effective practice is fundamental to improving outcomes for young people;

- Services are held to account for addressing the needs of young people;
- The youth justice sector is supported to develop the knowledge and skills to understand and address the needs of young people;
- The voices of victims are heard, and they are provided with the opportunity to share their views and take part in restorative approaches.

Consequently, the Welsh Government expects these Rules to be fully aligned with the UNCRC in ensuring young people who are detained have access to their rights and entitlements as set out above.