

**Commission on Justice in Wales
Oral Evidence Session
8 February 2019**

Present:	Commission members	Secretariat team
<p>Keith Towler, Youth Justice Board Member for Wales (KT)</p> <p>Lynzi Jarman, Youth Justice Board Director of Innovation and Engagement in Wales (LJ)</p> <p>Stephen Wood, Service Manager Youth justice Gwynedd and Ynys Mon (SW)</p>	<p>Lord Thomas of Cwmgiedd, Chair Simon Davies Professor Elwen Evans QC Dr Nerys Llewelyn Jones Juliet Lyon CBE Sarah Payne CBE Professor Rick Rawlings Professor Peter Vaughan</p>	<p>Andrew Felton, Secretary to the Commission Dave Gordon Chris James</p>
<p>Question area: What can be done practically to stop young people entering the criminal justice system?</p>		
<ul style="list-style-type: none"> KT: We want to leave you with the impression that the youth justice system in Wales has a success story to it. In terms of statistics, first time entrants into the youth justice system are 85% down since 2007 with a corresponding reduction in the number of children in secure accommodation and custody. As at today there are 26 juveniles in the secure estate. So there has been considerable success in terms of the data. It's been brought about because youth justice services in Wales made of local, regional and national agencies work well together. From a YJB Cymru perspective we work with UK Ministers but we also have a partnership approach with the Welsh Government. We therefore try to work collegiately with devolved and non-devolved services. Wales has managed this reduction because of its prevention practice. This has been preserved through strategic agreement with the Welsh Government where prevention and pre-court diversion has resulted in a more distilled population within the youth justice system but they have more complex and challenging needs. We have worked in partnership with a number of agencies most latterly the South Wales Police and Crime Commissioner (PCC) to develop the enhanced case management approach. This approach recognises the prevalence of trauma and attachment difficulties for children within the system. This way of working is proving really effective. So we have quite a successful story to tell that has been quite effective in stopping young people entering the system. There is a communications piece to be done with the courts to give them confidence that the prevention activity that has worked well assists children to lead fulfilled lives. There is also a communications piece needed with the youth courts who have seen their daily business reduce rapidly as a result of the success story. In Wales I chair the Youth Court Issues Group and we've been developing advice for the Welsh Government which we refer to as the "Blueprint". It makes recommendations to Welsh Ministers around the operation of the youth justice system. As we've developed it with partners, youth courts and magistrates have become interested in a practical sense about work load and specialist training as their business has reduced. To build confidence in the preventative approach, court representatives and magistrates are coming to observe the triage and preventative services we have. They have seen and are reassured about the robustness of decision making and the voice of the child and their families being heard in the process. We mustn't forget that magistrates are important in the youth justice system and they must have confidence that the preventative approach is working well. On the judicial side we have representatives of each of the youth court groups and chairs of benches on the Youth Court Issues Group and it meets quarterly. I will let you know the name of the permanent judge that oversees judicial involvement. David Davies from the Mid and West Wales Bench is the most consistent magistrate that attends, and David Thorpe from Cardiff. 		

Lord Thomas asked about England and Wales agencies that are dealt with.

- KT: We have the Wales Youth Justice Advisory Panel. It has representatives from the PCCs, HM Prison and Probation Service (HMPPS), HM Courts and Tribunals Service as well as representatives from local government and Welsh Government. It meets twice a year. We think there is a need to review the function of the Panel and its link to the All Wales Criminal Justice Board for England and Wales, the Panel being a sub-group of the Board. There's a need to sharpen it up. I can let you have an organogram of the arrangements and what our thinking is of how it can develop.
- LJ: In terms of devolved and non-devolved agencies working together in statute we have Youth Offending Teams (YOTs) where partners including health, education, housing, probation and police work together and at a national level this is replicated through the Wales Youth Justice Advisory Panel. While multi-agency delivery across boundaries is mostly effective, dual lines of accountability contribute to a complex and challenging delivery landscape.. The wider justice governance and accountability landscape appears overly complex with a risk that a focus on children may be lost. The WYJAP is the only national forum that brings together strategic leads with a shared interest in youth justice..
- KT: Wales is of a scale that people can come together at a strategic scale to work through the complexity. Our success in terms of a child first approach and prevention is about the personalities and post holders we have in place. It works well because of the people but that doesn't negate the fact that it's a highly complex strategic landscape.
- LJ: The best way to stop children entering the criminal justice system is through effective social policy and a children's rights approach. There is a wealth of evidence about the causes of young people offending and preventing them entering the criminal justice system is always better than cure. There is growing evidence about adverse childhood experiences and the impact of trauma on brain development. The correlation between adverse childhood experiences and outcomes is quite stark. Effective social policy is a key requirement but we know that some children will still enter the youth justice system and when they do we need to ensure we have a public and voluntary sector that can support their welfare needs as well as addressing their criminal behaviour. Coordinated activity around prevention has been successful. The fall in numbers has plateaued but there is more that can be done, to better coordinate activity, for example creating a core set of indicators in order to prevent adverse outcomes.
- KT: The Welsh Government has made a significant contribution by resourcing the prevention work. It's a real success that it's maintained this preventative resource year on year and it's important to recognise the Government's contribution. I think the arrangements are better in Wales than England, but that's an anecdotal view based on comments from colleagues in England.

Lord Thomas asked about detailed statistics for Wales to enable comparative data to be sought from the Ministry of Justice.

- KT: We can provide data.
- SW: In terms of funding pots, one of the biggest concerns of Youth Offending Teams (YOT) Managers Cymru is not the amount of funding but the way they are funded and where those funds can be allocated. They each must be spent on specified areas and there is a three way split between funds, which adds complexity to service delivery. My responses today are based on my consultation with YOT Managers Cymru. I would reiterate the remarkable reduction in numbers of first time entrants to the system. In my area, in 2008 we had 410 first time entrants and in the year to December 2018 it was 35. The reduction was driven initially by things like youth inclusion and support panels and national programmes but we hit a glass floor. The innovative bureau and triage services, introduced in Wales through the Swansea YOT and then across Wales, have driven a further reduction. It's about being innovative with the cohort you have to drive down the number of first time entrants. Now our ability to effect change and decrease numbers further is becoming restricted because of our past successes. We also need to consider the removal of

offences brought to justice. Children were removed from the police target in 2009 and this contributed towards a fall in the number of first time entrants. One of the biggest factors that would help us to reduce numbers further is a focus on education, training and employment and the school exclusion programmes. There is a high number of exclusions from school often before children enter the youth justice system and there needs to be a greater focus on that. This follows on from recommendations in a recent report published by Estyn. Of those children now entering the system we are seeing problems around education, training and employment. We are seeing higher numbers being excluded from school just before they enter the system. In Wales we have four welfare related performance indicators around education, accommodation, mental health and substance misuse and we notice that of the children in the system there has been a steady decrease in our performance in relation to these indicators. What is stark is that exclusions play a significant part in our deteriorating performance.

- LJ: The current position, if you look at the work that YOTs are doing, it's split 50:50 between statutory court work and prevention activity.
- SW: We have identified that as an average across Wales 49% of the work of YOTs is prevention and diversion and 51% is statutory work such as courts, cautions and so forth.
- LJ: With fewer people in the system we now have a more complex cohort with needs that can't be met by a single agency alone. We talk about this cohort being within the statutory framework of the youth justice system but YOTs report the cohort in the preventative area also exhibits complex needs.

Question area: Are there specific issues in Wales which lead to young people offending?

- SW: Education, employment and training is a key issue. YOT managers identified speech, language and communication as issues. Deprivation is another key issue. County lines is significant in terms of our current cohort, but so too is child criminal exploitation generally. The reduction in funding of youth services has been significant, the services they offer curtailed and we see the impact of this contributing to offending behaviour. We have heard this from young people themselves.
- KT: I am the chair of the new interim Youth Board for Wales tasked with looking at universal youth services in Wales. Through austerity, universal youth services have reduced. It's not a service with a statutory base and it is not protected in law meaning it is at risk when local authorities are faced with difficult funding decisions as part of the cuts agenda. The task of the interim Board is to report to the Welsh Government with recommendations for a sustainable model for universal youth services. All of Wales is affected. Austerity has impacted local authority youth services provision across Wales. We are seeing an increase in third sector provision as local authorities become commissioners rather than providers. That is not to say that the third sector have not faced huge challenges as austerity has resulted in some voluntary organisation closures. Anecdotally, young people talk about the value of good youth work and support. Things that young people want to see are opportunities for trusted relationships with people outside of the family but inside local communities. That's where the real pressure is and where youth services have previously stepped in. My task is to try and recognise that and build that capacity back again. We are looking at what contribution youth work makes to social policy areas across Government. The formation of the Board has been helpful for the Welsh Government in the way in which it is looking at youth homelessness and mental health and well-being. The Welsh Government, having consulted the Board, directed £3.5 million to youth homelessness and £2.5 million to mental health, all through a youth work methodology. That money is allocated to local authorities and they must evidence how they work with the third sector and how they spend that money.

Rick Rawlings asked about the connections between the work in youth justice and more generally the criminal justice system given levels of imprisonment in Wales.

- KT: There are huge lessons for the criminal justice system in the way that youth justice has worked. We should prioritise the 18 to 25 years of age cohort and think about the ways in which

we can extend the principles from youth justice through to them. Those ways of working are enormously beneficial. I'm the former Children's Commissioner for Wales. I looked at youth up to the age of 25 years if they had been in care. Vulnerability is not determined by age. There is a massive level of vulnerability in the system that the adult criminal justice system doesn't respond to. We will check the figures on the age profile of younger people in the criminal justice system and whether numbers have dropped.

- SW: What has been noted by YOT managers is the easy access to alcohol for young people in terms of its availability and cost. There is a drinking culture across the cohort of those at risk of entering or already in the justice system and this is outwith the drug issue. It's a form of self medication for 14 to 18 year olds as regards trauma for them that leads them to drink. We've looked at the Denmark model. In terms of the interface between youth and adult services, there can be a cliff edge in that a person can be eligible to receive services as a youth but those services are not available when they reach 18 years of age. There have been discussions about extending the remit of YOTs beyond the age of 18 for certain young people based on their vulnerability.
- LJ: There is an accountability gap when people turn 18 around who is responsible for them. The culture between youth justice and probation is an example. Youth justice encompasses relational practice, whereas the volume of cases with probation is a large constraint to this. How you handle that transition is the issue. HMPPS is making significant steps around the Adverse Childhood Experiences (ACEs) agenda in Wales.. In terms of the growing body of evidence, trauma in childhood is a significant issue. In the work we are doing to trial Enhanced Case Management in South Wales, we compared 25 cases against the Public Health Wales, ACEs study from 2015. The study suggests if you have four or more ACEs your risk is higher. In the comparison exercise we conducted, 18 of our 25 had four or more ACEs and 4 of them had 8 or more ACEs. We will share the analysis we have done on this with you as unpublished information, not for wider circulation.

Question area: What should be done to improve the way young people are treated in the criminal justice system?

- KT: At YJB Cymru and implicit in the way that YOTS work there is an increasing understanding of the voice of the child. There is something about the system in Wales, through all of the diversion activity right to the court, that has a greater appreciation of what young people think will work for them. Some of that comes out in the enhanced case management approach. When we talk about rights based practice and the United Nations Convention on the Rights of the Child and the way the youth justice system works we could put more emphasis on the voice of the child.
- LJ: The YJB has just finished drafting advice requested by the Welsh Government previous Cabinet Secretary Alun Davies, on how outcomes for children in the youth justice system could be improved. Once this has been shared with the Welsh Government, we can share that advice with you, this advice is referred to as the youth justice "Blueprint" for Wales.
- SW: The "Blueprint" is an excellent start taking account of the therapeutic model and trauma recovery. We want to develop the emphasis on the child as a victim here and the risk of circumstances pushing them into crime. Being contentious, a change in legislation to increase the age of criminal responsibility. There is an opportunity to avoid children being criminalised and to avoid limiting their opportunities in later life. Another example is to give serious consideration to alternatives to courts, such as the model of children's panels in Scotland, so as not to bring children into what is quite an adult environment.

Question area: Are there international examples about youth justice which could be followed in Wales?

- SW: In Denmark there was a push to change the drinking culture and to encourage local communities to take ownership of this behaviour, for example by patrolling neighbourhoods to challenge drinking, enforcing curfews and generally stopping children drinking in public places.

This is significant not just for behaviours but to avoid the detrimental health effects of using alcohol at a young age. In Denmark it promoted the adoption of a social approach to participation of young people in social and moral learning. There are good examples of restorative practices in New Zealand and Ireland we could learn from.

Peter Vaughan asked about the key to Denmark success.

- SW: We have had the debacle of Anti Social Behavioural Orders and so forth being collected as a “badge of honour” and accelerating the criminalisation of children. It’s about communities taking ownership of this, be that retail outlets taking responsibility at point of sale, parents knowing where their children are or pastoral education in schools and youth centres about moral responsibility. So it’s the responsibility of young people and communities and legislation to keep alcohol away from children.
- KT: The Scandinavian countries protect childhood and governments support a rights based approach. They defend children’s right to play outdoors at a young age. There is a very different cultural approach to bringing up children that carries across into law and other professional practice. It is a sharp contrast to what happens in the UK and the approach of the media to reporting children’s involvement in crime. There is a real media circus in the UK and the media should understand its public responsibility in reporting high profile cases.
- LJ: Why look outside of Wales when it comes to youth justice? We have worked in partnership across two governments since 2004. We have a joint strategy with the Welsh Government that puts the child at the heart of the youth justice system, we take a child first approach and we’ve organically grown our approach and continue to build on this good practice. We should continue to build on this.. Colleagues in England are looking at the innovative work we are doing, such as Enhanced Case Management and exploring options to extend into England.
- KT: I’m on the Youth Justice Board and the only member with a geographical responsibility. I feel I could have a conversation very quickly with the First Minister in Wales but not the case with Ministers in England. The Chair of the Youth Justice Board sees Ministers quite frequently in England and Wales. He is very effective with Government across the UK and Wales.

Simon Davies asked about other areas of success we could learn about.

- KT: We adopted and created a shared vision of what we were trying to do in terms of youth justice, no matter whether from a devolved or non-devolved agency. Rhodri Morgan, the former First Minister, described it as being part of “Team Wales”. It enables people to have shared vision whatever their reporting line and accountability to each other to deliver the vision.
- SW: There is a collegiate approach to multi agency youth justice teams that should be replicated in other areas. In Wales we’ve had the opportunity to innovate that has benefited the young person.

Question area: Are there challenges in youth justice not being devolved but that many of the services that support young people being devolved?

- LJ: Youth justice is a success story. There are still challenges and children in contact with the system need a multi agency response. Issues are across the board, whether devolved or non devolved. There has been divergence in policy between the UK and Welsh Governments, for example affecting secure accommodation and the challenge is how to navigate through those policy distinctions to get the best outcomes for children. We will tell you how many of the 26 children in secure accommodation are in Wales.
- KT: YOTs are based in local authorities. The demands on other children’s services in terms of welfare are very high. Taking the secure estate as an example, there is frustration from the courts about the lack of such accommodation coming through the welfare system which then places pressure on YOTs and the allocation of accommodation for youth justice needs. The welfare part

of the system is in crisis and creates pressure for YOTs and the management of the secure estate, particularly when the contract with HMP Parc is due for renewal. There are 60 secure beds there and 6 in Hillside. Hillside could be filled four times over with just the welfare demand. Pressures on children's services in Wales are incredibly high. Demands on school based counselling services, for example, are incredibly high. There is enormous pressure throughout children's services.

- SW: There is conflict in devolved and non devolved areas in terms of the type of funding we receive. Prevention work keeps kids out of the criminal justice system which saves the UK Government money but it's done with funding from local authorities and the Welsh Government.

Question area: We have heard there are inadequate facilities in Wales for children requiring secure accommodation. What can be done to improve the situation?

- KT: For boys, there is no secure accommodation in North Wales and they go to HMYOI Werrington. So even though we only have 26 children requiring secure accommodation through the justice system it doesn't mean they will be accommodated in Wales. Girls are not going to be close to family or to their local communities. The Youth Justice Board is looking at resettlement issues. In the "Blueprint" we make the case for two centres in Wales, one in the North and one in the South, based on the therapeutic model. There are enormous welfare demands too. We have a Task & Finish group looking at secure accommodation and we need to keep youth justice needs on the agenda. Someone needs to take a view across the whole system. You cannot distinguish between welfare and justice children in accommodation and by the route they come into the system.

Juliet Lyon asked about devolution of a youth justice system for Wales.

- KT: My personal view is that we could manage the process better with more coherence taking a rights based child centred approach if it was devolved.
- LJ: A decision on devolution could take some time. The proposals in the "Blueprint" around the secure estate could achieve a solution for Wales within the current devolution settlement through strengthening existing partnership arrangements.
- SW: Yes there is a growing wave of support for devolving youth justice in Wales. It would resolve the funding issue for us and would align policies of welfare and justice and put the child at the centre of what we do. The review of youth justice had recommendations around the development of secure schools and colleges. We question that when you look at sentencing, where average sentences are 12 to 13 weeks of custody. Not much education can be achieved in that period of time. You could do more therapy if detention was therapy based and automatically transferred into a resettlement programme. We are supportive of secure units that are therapy based. We support a move away from mental health diagnosis to mental well-being support.

Lord Thomas asked about where the system is not working.

- KT: We can provide information.
- LJ: It would be improper to highlight a service where we have concerns about poor performance. What I would suggest is that you take an interest in the secure estate. I suggest the Commission visits the young person's unit at Parc, by their own admission the environment is a significant constraint. The staff there do a great job in difficult circumstances and they are trying hard to mitigate.