



Standing Committee for Youth Justice

## **Coronavirus: Issues and recommendations for children and young people**

### **Member feedback from the Standing Committee for Youth Justice - March 2020**

The Standing Committee for Youth Justice (SCYJ) is an alliance of over 60 non-profit organisations working together to improve the youth justice system in England and Wales. Our diverse membership ranges from large national charities, advocacy organisations, numerous smaller grassroots and community organisations the Association of Youth Offending Team Managers. SCYJ pools the expertise of our members and provides a channel through which the experience of those involved with the youth justice system may be heard and represented. We are uniquely positioned to act as a conduit for issues and proposals from organisations at the front line to reach those taking important decisions.

In this unprecedented public health emergency, our members and stakeholders are working intensively through the many challenges posed by the COVID-19 pandemic. There will be implications for all children and young people in our communities, particular challenges for those in the youth justice system, and exceptionally critical risks for children in custody. Over the past few weeks, we have been working with our members to gather information and insight, enabling us to highlight issues and make practical suggestions, as outlined below.

#### **Summary of key areas for consideration**

- Specific communications directed at young people about the importance of social distancing and isolation measures.
- The balance of public health risks alongside other risks to safeguarding children and young people from harm.
- The role of frontline youth workers with flexible emergency funding, personal protective equipment and antibody testing.
- Support, guidance and advice for youth offending services and community partners.
- Guidance for policing children and young people and minimising arrests.
- Maximising diversion from the youth justice system and penal custody.
- Managing the planned release of children from prisons.
- Longer-term considerations for children in the youth justice system.

**Recommendation: National guidance must be established, communicated and implemented that specifically focuses on the impacts of children in the criminal justice system during this crisis, and that promotes safe transfer of children out of prison with appropriate support packages in place.**

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## 1. Safeguarding children and young people in the community

The health and safety of society's most vulnerable children and young people should be of paramount importance at this time. Many young people will find it challenging adhering to lock down and social distancing rules. The following headings set out the main concerns with regards to the safeguarding of children and young people in the community.

### ***Engagement with Young People***

- Communication to young people is very important in order to quell the spread of misinformation – the public health message is not consistently getting through.
- For some, the inability to stick to those rules will be because of their Special Educational Needs, learning and communications difficulties or mental health issues.
- There is a need to develop a means of relaying young people's experiences and what they need from organisations and services during this crisis - information from young people to our member organisations has been limited by the measures in place.
- Public services, including the criminal justice system, should recognise that children and young people's vulnerabilities are heightened under these emergency measures.

**Recommendation: A concerted communication campaign specifically directed towards young people about the importance of social distancing and isolation measures is needed.**

### ***Safeguarding concerns in relation to emergency measures and children and young people at risk***

- Many will not be complying with the social distancing rules.
- SCYJ members have real concerns about the impact of the 'stay at home' measures for children and young people living in complex family situations – their home can be the least safe place.
- Some young people will be assessing the health risks associated with coronavirus alongside considerations of their personal risks of harm within the home. Confinement is likely to affect young people's experience at home where there is neglect, domestic violence and inter-familial abuse.
- There is particular concern for children who are vulnerable but do not meet thresholds for social care or have care plans in place - supporting organisations will need to take provision to them.
- There is an apprehension that this will lead to them being criminalised and a strong feeling that police need to tread carefully with those young people.
- Now that schools, Pupil Referral Units and alternative provision are closed, there is substantially less oversight of children. How can resources be redirected properly and youth services bolstered to support children and young people?
- There is reduced provision from all front-line services including social care, Youth Offending Services and community mental health teams - this will have a knock-on effect to for young people who usually access these support services.
- Majors concerns over lack of direct interaction with young people, particularly those already high risk, and their increased risks around exploitation and extra-familial harm.
- There is a balance to be struck - we must not lose sight of prevention, even in crisis.

**Recommendation: Clear guidance is issued for how local partners can balance public health risks alongside other risks to safeguarding children and young people from harm.**

### ***The role of voluntary sector youth-work organisations***

- Frontline youth workers are adapting their work and some are keen to continue outreach, with the necessary protections in place, including personal protective equipment and antibody testing for their youth workers.
- Many believe they should be considered as key workers – they have an important role to play but need the resources to enable their work with the most at-risk young people to continue.
- The move to remote working has left many organisations without the digital infrastructure to maintain engagement with young people.
- Young people with the highest levels of support needs (including those on tag and curfews) still need to be supported and visited.
- Charities find themselves in insecure positions regarding current and future funding. These organisations need support in terms of flexible working arrangements for workers without financial penalties. Where staff are ‘fallow’ there is not enough flexibility to adapt to the environment – changes in staffing also posing issues for continuity of relationships with young people.

**Recommendation: Frontline youthwork organisations need flexible emergency funding, digital support, personal protective equipment and antibody testing.**

## **2. Children under the supervision of Youth Offending Services**

The pressures the whole system faces are huge - youth offending teams (YOTs) are necessarily implementing new operating models whilst working with reduced staff and managing concerns over their own and children’s wellbeing.

- Youth Offending Teams have adapted swiftly from business as usual to delivering services remotely. They have a crucial role to play at this time and need the guidance, support and resources to continue to run a service for young people.
- IT infrastructure is an issue in some areas – preparedness to facilitate remote and digital working varies significantly across different services.
- Some YOTs are losing staff through redeployment to other priority areas of service (e.g. child protection, children’s homes, secure children’s homes) and are at minimum levels of staffing.
- At the outset of the directive to work from home, some YOTs reported a lack of clear advice and guidance from the Youth Justice Board (YJB) on how to approach this new operating model. For example, there was uncertainty about how to run Intensive Supervision and Surveillance programmes (usually 25 hours of interventions per week) and regarding how to run Referral Panels when they are not able to sit.
- We understand that since then, the YJB has issued guidance on suspending or varying national standards.
- Children also need a clear message around what the expectations are for them regarding reporting in for YOT appointments, bail appointments etc.
- YOTS have reported that young people under their supervision, especially in independent living accommodation, are struggling to look after themselves, particularly in terms of not having enough food.
- We understand that higher-risk matters are being prioritised (e.g. ISS) and home visits are only taking place where absolutely necessary – some YOTs are trying to use a screening form to assess appropriateness of visits.

**Recommendation: YJB guidance on suspending or varying national standards should be shared with young people, their supporters and community partners – including voluntary sector youth-work organisations who are involved in supporting young people locally.**

### 3. Minimising throughput of children into the youth justice system and custody

The MoJ need to work across government in order to mitigate the potential impacts of how new lockdown measures are policed, particularly in how dispersal measures will be enforced for children and young people. For some children and young people there will be trauma and adversity in the places they are expected to remain throughout the day and police should exercise caution in their response.

#### ***Policing during the national emergency***

We recognise the need to use police powers to ensure compliance with social distancing policies to curb the spread of COVID-19. Policing has a crucial role to play in keeping our communities safe, in the most challenging of circumstances. But at this time of huge strain, we cannot overstate the importance of keeping children out of the criminal justice system. We understand from SCYJ members that the availability of PACE beds is significantly reduced and that there is an immediate issue in some areas with a lack of volunteers to act as Appropriate Adults.

- The actions of police officers on the ground have the potential to alleviate unnecessary pressure by limiting throughput to the rest of the system. Guidance must be provided to the police around how to approach policing with children and young people at this time, in line with the National Police Chiefs' Council National Strategy for the Policing of Children & Young People.
- If children are found out in public and 'breaking' the social distancing restrictions in place, their status as children must be properly recognised. The police should be returning those children home to their parents or making welfare enquiries where necessary.
- SCYJ members are concerned about the disproportionate impact use of these new powers may have on BAME and looked after children.
- With a lack of clear guidance on these enhanced powers there is a concern that existing disproportionality will increase. It is unclear if and/or how these encounters will be recorded – they should be subject to a rigorous monitoring process.
- Police forces must take immediate action, in particular:
  - Limit arrests and only pursue the most serious offences committed by children and young people
  - Avoid placing any child or young person in police cells whilst COVID-19 risk levels remain high
  - Suspend overnight detention of any child or young person in police custody.

**Recommendation: Police forces must be reminded of their duties to children and young people. These are clear messages that the Ministry of Justice could helpfully reinforce with Home Office and policing colleagues.**

#### ***Reducing the number of children entering custody***

Hearings should only take place if those involved are confident that they can proceed in a way that is fair to the child and which allows the child to participate effectively, with necessary safeguards if using video-link. It is vital that decisions affecting children who are at risk of custody take the following concerns into account:

- The majority of children who end up in custody are extremely vulnerable. Many have underlying health needs, some of which may not have been identified, which puts them at risk of a severe response to the Coronavirus.
- Many have mental health and/or learning difficulties, which will affect their ability to understand and cope with the impact of the pandemic. Many are very worried about relatives.

- The majority, if not all, will be at serious risk of mental health issues and/or self-harm in the custodial environments struggling to deal with the impact of the virus.
- During the current crisis, custody will have a much deeper impact on children than just deprivation of liberty. They are likely to be exposed to a wide range of harms associated with prolonged solitary confinement, potential violence, huge anxiety and much more, without even the guarantee that their basic needs will be met.
- New admissions to custody present additional public health risks around spreading.

#### *Remand decisions*

- Child remand figures are worryingly high, yet the majority of children who are remanded do not subsequently get a custodial sentence.
- Judges and magistrates should be encouraged to ensure that any decision to remand to custody should be subject to anxious scrutiny in light of the virus.
- It is simply not appropriate or safe to expect Young Offender Institutions to be able to care for vulnerable children with underlying health problems and mental health issues at this time.
- If children absolutely must be remanded, they should be sent only to secure children's homes.
- Children should not be remanded unless there are wholly exceptional circumstances.

#### *Sentencing decisions*

- The Sentencing Council's Guidance on children and young people is very clear that the impact of custody on a child is highly relevant to the sentencing exercise. The impact of the pandemic squarely falls within this guidance and this should be highlighted to all those involved in sentencing children. Such an approach would be entirely in accordance with the 'welfare principle' (s.44(1) Children and Young Persons Act 1933) and the best interests principle required by Article 3 of the UN Convention on the Rights of the Child.
- Judges and magistrates should be encouraged to avoid imposing custodial sentences on children at all costs at this time.

#### *Breaches and recalls*

- GPS tagging is rolling out on 30<sup>th</sup> March 2020 – tagging could be considered with bail applications. There will be issues around tagging some young people to their home circumstances for extended periods of the day.
- A flexible approach to breach should be adopted at this time and recalls to custody only used in the most serious of circumstances.

**Recommendation: Clear guidance issued to judges and magistrates emphasising the drastic need to stem the flow of children into custody during this national emergency.**

## **4. Children in penal custody**

We appreciate that the Youth Custody Service are trying very hard to manage an extremely challenging situation for the youth secure estate. In such severe confinement, meeting basic needs and offering simple things are even more important. We understand that YCS has been proactive in trying to get on top of the issues but we need to be clear their communication is implemented on the ground.

- There is no official data being shared regarding cases or suspected cases in youth custody.
- What is being put in place under the current regime to ensure young people have access to immediate support? What is being done to address young people's fears around the virus?

- Are officers being provided with personal protective equipment?
- Maintaining contact with family and supporters is crucial. Allowing children to access free calls to family, social workers and lawyers would be the right thing to do under the current circumstances.
- Are options being investigated for provision of video conferencing as an alternative to family and professional visits?
- Voluntary sector organisations providing through the gate support, sometimes intensively, need to have access to young people in order to play their part in reassuring them and putting measures in place to support them on their release.
- Our members have reported a lack of information being communicated to families and outside supporters about provisions being made for them to have telephone contact with the young people in custody, in the absence of visits.
- What alternative education provision is being provided? SCYJ member organisations have offered activities/teaching resources and are happy to offer online seminars and teaching via videoconferencing.
- Young people need to be provided with information about the virus and what they can do to prevent it.
- A balanced and nutritious diet plays an important role in a healthy gut/digestive system, which strengthens the immune system. Food plays an important role – could there be an increase in budget for access to fresh and healthy food?
- All external adjudications should be suspended for the time being.

**Recommendation: Due to the severe restrictions that are in place within the establishments, we would encourage consideration of measures that could improve the quality of everyday life.**

## 5. Coordinating the safe release of children from prison

There has been a lack of specific mention of children in the secure estate. Courts are adjourning trials (and possibly sentence hearings) so a potential knock on effect is children stay longer in custody.

- There is currently spare capacity in Secure Children’s Homes in England and Wales that should be utilised.
- There will need to be a concerted and coordinated effort and for custody staff to work with YOTs, children’s services, solicitors and other partners to arrange assessments and plans for the safe transfer of children into the community.
- Clear leadership is needed in messaging to custody staff, YOTs, probation officers and other partners.
- There is concern from SCYJ members that children in care and care leavers are going to be hit the hardest. For looked after children, the youth custody service must plan early to ensure children are accommodated safely after release.

### *Managed early release of sentenced children*

- A coordinated response is needed to look at all eligible for early release.
- Establishments need to start facilitating assessments with relevant professionals by telephone and video link to help put release plans and preparations in place.
- Would it be possible to identify and map out at all children who are in scope of early release and contact the Directors of Children’s Services and YOT Manager in every area to warn them so they can start planning early and working with local partners?

### *Coordinating bail applications for children on remand*

- Bail applications would need to be made for children on remand, as the legal mechanism for releasing them into the community. YOTs could be looking at those

cases and making bail applications. Would it be possible to coordinate a breakdown of remand cases by YOT area?

- Strategic, planned communications to Directors of Children's Services with as much advance notice as possible are needed to allow for preparation of the most appropriate placements and packages of support in the community, if children cannot go home to their families on release.

*Special arrangements for children who are unwell*

- If children are ill (potentially with COVID-19), careful planning is needed to do this safely and return to isolation in the community – special arrangements need to be made for these children and this should not be a reason to keep them in prison

**Recommendation: Specific guidance that promotes early release of children and measures to transfer children on remand into the community, with a coordinated response.**

## **6. Longer-term considerations for children in the youth justice system**

- There are longer-term questions about how the system clears inevitable backlogs, for which a diversionary approach taken now will make even more sense.
- Due to delays in court hearings, likely to be an increased number of young people who commit offences as children and are sentenced as adults.
- Criminal records obtained in childhood have long-lasting, negative consequences for many years to come – a tempered approach to policing of children at a time of national crisis will avoid creating barriers to education, employment and accommodation for many people in the future.