



Standing Committee for Youth Justice

SCYJ response to Charlie Taylor's review of the youth justice system and the government's response February 2017

Summary

1. The Standing Committee for Youth Justice (SCYJ) is an alliance of non-profit organisations campaigning for a better youth justice system in England and Wales. We welcome the Charlie Taylor review of the youth justice system and the government's response. We agree with the principles stated by, and implicit in, Taylor's work, and with many of his recommendations. A number of the government's commitments set out in its response are welcome; however, we are disappointed that it has not gone further and that it has failed to respond to some of Taylor's proposals at all.
2. We would welcome a full response from the government on: devolution of custody budgets; all local authorities, health and police having diversion schemes; Taylor's recommendations on police custody; and children's panels. Overall, we believe that more focus is needed on the role of the voluntary and community sector, the voice of the child, the particular needs of girls and black and minority ethnic (BAME) children, and on working within the principles of Taylor's proposed reforms. We believe the government's response is weak on looked after children, BAME children (particularly around diversion), crown court trials, advocacy, and prevention, diversion and early intervention – there is nothing in the government's response to ensure these services, assessments, or the necessary services will be available, or that services will be integrated. We would welcome elaboration on these matters.
3. Further to the government's response, SCYJ believes: action should be taken immediately on criminal records and reporting restrictions; more resources are needed for appropriate adult services; research is needed on the over-use of remand; "pop up" courts should be considered to deal with the problems arising from court closures; child-specific liaison and diversion is needed; and the government should consider raising the custody threshold as part of its sentencing review. We support the retention of an expert body such as the YJB and the statutory duty to have a YOT, but we believe there is room for the government to secure improvements to both. We are delighted by the government's acknowledgement that Young Offender Institutions and Secure Training Centres are not fit for purpose, and by its commitment to phase them out. We await further details on secure schools and support the proposed measures to improve custody, though we would like further details. We welcome measures to improve resettlement, but believe more fundamental reform is required.



Principles and overarching comments

1. SCYJ advocates a child-focused youth justice system that protects children's rights (as set out in the UN Convention on the Rights of the Child (UNCRC) and associated documents), and supports the reintegration of children who have offended back into society. Having a distinct justice system for children is of fundamental importance; it reflects the unique position of children in society, and is a requirement of the UNCRC (Article 40).
2. As such, we support strongly many of the principles Taylor sets out, particularly that society and government need to "see the child first and offender second" (para 6), and that "it is right that children who break the law are dealt with differently to adults" (para 6). In addition, we agree strongly with his views that the justice system should be reserved for serious and persistent offending, and should not be used to redress childhood mistakes (para 9). Consequently, we also support his view that some behaviour and misconduct is better dealt with outside the criminal justice system, and that children who offend should always be dealt with at the "lowest possible level" of the system (para 9). Likewise, we support his aspirations for early intervention, and his vision for an "integrated, seamless and coordinated response" to children who offend (para 178) and the transformation of the system from "justice with some welfare, to a welfare system with justice" (para 179).
3. The government says Taylor presents a "compelling case for change" (para 7) and will be "implementing his key recommendations" (para 7). It explains that it will provide "discipline, purpose, supervision, and someone who cares" (para 6) to help children in the justice system build a better life. We welcome this acknowledgement of the importance of relationships in supporting children in trouble with the law. However, we urge the government to state its support for the principles outlined above, which are fundamental to Taylor's vision for reform.
4. Though the government finds Taylor's case "compelling", SCYJ is concerned it has not gone far enough in adopting many of his recommendations, and has not even responded to a number of them. We are disappointed that the government has not engaged more fully with Taylor's recommendations, particularly since it has spent £350,000 on the review and had the report for over six months. The government says it is "determined to improve standards in youth justice" (para 1) but the current proposals will, in the main, only affect custody, not the wider system. Much of the government's response commits to consult or discuss issues with interested parties. We had hoped for more concrete actions, given that the government has had six months to consider these proposals and that the Taylor review itself was a year-long consultative process.
5. We are concerned that there is insufficient emphasis in either document on the role of the voluntary sector and on involving children in individual and collective decision making. On the latter point, a Peer Leader from Peer Power has asked, "How will you make sure young people know and keep them involved in the consultations?" The government would do well to respond to this question. We do not believe that the particular needs of girls or Black and Minority Ethnic (BAME) children have been given due emphasis by the government.
6. In-keeping with our commitment to a UNCRC-compliant youth justice system, SCYJ believes strongly that the minimum age of criminal responsibility (MACR) should be raised. The absolute minimum MACR is twelve years old, according to the UN Committee on the Rights of the Child. The current MACR in England and Wales is ten years of age, which contravenes children's rights, is out of sync with other areas of social policy and the rest of Europe, and is inconsistent with evidence on child development. We encourage the government to consider increasing the MACR as part of its review of the youth justice system.



Central government, devolution and youth offending teams

Taylor's recommendations

7. Taylor wants local authorities to have more freedom to innovate and develop their own models of youth justice delivery, and to integrate their youth justice responses with other services. He therefore recommends new systems for monitoring, inspection and assessment (paras 43-46) and that:
 - ❖ The government removes the requirement for local authorities to establish a youth offending team (YOT) but retains statutory duties on other services (para 37);
 - ❖ The Ministry of Justice removes the ring-fence around funding to be spent on youth justice services (para 39).
8. He recommends that the government devolves the custody budget so local areas “can assume responsibility for commissioning their own secure provision” (para 52). This, he argues, would enable services to meet the demands of local areas, increase the integration of services, reduce the use of custodial remand, and improve resettlement. Within a more devolved youth justice system, Taylor recommends the YJB is replaced by the Office of the Youth Justice Commissioner (para 169), and that the MoJ establish a new expert committee (para 171) to provide the government with independent advice and challenge on its approach to youth justice.

The government's response

9. The government has said it “will continue to ring-fence grants for the provision of youth justice services” (para 40). However, it agrees there is a case for greater flexibility and commits to working “with local authorities to explore how local areas can be given greater flexibility to improve youth justice services” (para 11). In addition, it will work “with the YJB to review governance of the system and to set clear and robust performance standards for all those working within the community and custody” (para 33).
10. The government did not, however, respond to Taylor’s proposal to devolve custody budgets, though it did commit to reviewing custody commissioning arrangements, including creating “creating a single head of operations with overall responsibility solely for the youth secure estate” (para 35). The government has not responded to Taylor’s recommendations to abolish the YJB or introduce an expert committee, though it says it will “work with the YJB to review the governance and accountability framework for the whole system” (para 33).

SCYJ's position

11. SCYJ supports the retention of a central, specialist youth justice body such as the YJB. However, we would like to see the YJB become more open and transparent. We would also like to see a wider range of backgrounds and expertise represented on the Board, and believe the government should consider setting up expert bodies to advise the YJB on specific issues, such as custody. We believe these latter proposals would allay the need for the expert body proposed by Taylor. We would also like to see increased linkage between the YJB and relevant government departments to draw together their various work on vulnerable children.
12. SCYJ would like to see YJB Board appointments and deliberation made more open. Recruitment should be open and transparent and adhere to cabinet office guidance. Gaps in the Board’s expertise should be addressed so that it represents the youth justice landscape more closely, including recognising the importance of the voluntary sector and the experiences of children themselves. We believe the Board should include: a senior frontline practitioner; a representative from a third sector organisations working on youth justice issues; a representative from a grassroots third sector organisation; an academic with an interest in youth justice; a representative for Wales; a defence solicitor; a senior health professional; a representative for diversity issues; a specialist in Black and Minority



Ethnic (BAME) issues; an education professional; and a person under 25 with experience of the youth justice system.

13. We believe the YJB could benefit from expert groups advising on discrete subject areas, particularly custody and community work. Such groups would concentrate expertise on specific issues to inform the Board's work. We would envisage such an expert group including academics, legal professionals, practitioners and children or young people with experience of the system.
14. We support the government's decision to retain the ring-fenced grant and the statutory duty to have a YOT. We observe however that the ring-fenced grant has been reduced by half since 2009, which inevitably weakens the impact in promoting good youth justice practice. In different circumstances removing the ring-fenced grant might be more desirable, but in the current financial climate, the government is right to reject this recommendation and retain this as a discrete area of spending.
15. Retaining the statutory duty to have a YOT is welcome. We believe that doing so will help to maintain a focus on children who offend and the importance of multi-agency working. However, we are sympathetic to some of the concerns raised by Taylor, such as that services sometimes step back from working with children once the YOT is involved. And we agree with his assertion that "a narrow criminal justice response will not on its own be enough to stop their offending". In this regard, we are concerned that some YOTs take a deficit-led approach, principally focusing on the child's offending behaviour. This is contrary to the desistance evidence base, which suggests, among other things, that practice that is strengths-based and addresses individual, as well as social and environmental factors is likely to be most effective.¹
16. We would encourage the government and local areas to consider how YOTs might enhance their multi-agency approach, where necessary, to best ensure a holistic response to children's offending; new models for engaging children in the community, drawing on multi-agency resources, should be considered. SCYJ believes the statutory duty to have a YOT is sufficiently flexible to allow for the delivery of youth offending services via a range of models; for instance, the Surrey model is compatible with the statutory duty. Whilst retaining the statutory duty, the government should set out evidence informed (desistance) principles for YOT working. These principles should include: prioritising the building of a single, positive and consistent relationship with a child, in recognition of the evidence that such a bond with a worker is very often a key facilitator of change;² focusing on and developing strengths; supporting self-belief, hope and 're-biography'; and building reward and recognition into work.³ We also believe the name "youth offending team" is stigmatising and we would like to see it revised; a non-stigmatising alternative should be adopted.

¹ Farrall, S. (2002) *Re-thinking What Works with Offenders: Probation, social context and desistance from crime*, Cullompton: Willan Publishing ; McNeill, F., Batchelor, S., Burnett, R. and Knox, J., 2005, *21st Century Social Work: Reducing Re-offending: Key Practice Skills*; Glasgow School of Social Work.

² Drake, D. Fergusson, R. and Briggs, D. B. (2014) 'Hearing new voices: Re-viewing Youth Justice Policy through Practitioners' Relationships with Young People', *Youth Justice*, 14 (1), pp.22-39; Gray, E. (2013) *What Happens to Persistent and Serious Young Offenders When They Grow Up: A Follow-Up Study of the First Recipients of Intensive Supervision and Surveillance*, London: Youth Justice Board; Phoenix, J. and Kelly, L. (2013) "You have to do it for yourself: Responsibilization in Youth Justice and Young People's Situated Knowledge of Youth Justice Practice", *British Journal of Criminology*, 53, pp.419-437; Mason, P. and Prior, D., 2008, *Engaging Young People who Offend*, Youth Justice Board:

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/356204/Final_EYP_source.pdf

³ See for instance: Maruna S and LaBel T (2010) 'The desistance paradigm in correctional practice: from programmes to lives' in F. McNeill, P. Raynor and C. Trotter (eds.) *Offender Supervision: New directions in theory, research and practice*, Oxon: Willan Publishing; McNeill F and Weaver B (2010) 'Changing Lives? Desistance Research and Offender Management', Report No.03/2010, The Scottish Centre for Crime and Justice Research, *Project Report; No.03/2010*; <http://blogs.iriss.org.uk/discoveringdesistance/useful-resources/> and <https://www.iriss.org.uk/resources/insights/how-why-people-stop-offending-discovering-desistance>



17. The government should consider how to ensure YOTs have greater involvement with children's services. The government may also want to expand the list of YOTs' statutory partners to include, for instance, Child and Adolescent Mental Health Services (CAMHS) and housing. In addition, thought needs to be given to strengthening the requirement on services to invest in YOTs – we have heard reports that some services are not fulfilling their duty in this regard and that the requirement needs "teeth".
18. As above, we acknowledge the case for greater flexibility locally, while also believing that some part of the progress made in the last ten years is a consequence of the operation of national standards for youth justice. If standards are to be made less rigid there needs to be transparency not only around the process by which such decisions are made, but also about how performance and young people's outcomes in these areas will be monitored. There is a case, we believe, for the voluntary and community sector to have some role in such decision making in order to retain confidence in such processes, including at a local level.
19. SCYJ does not believe the government's commitment to reviewing governance of the system is necessary. Since 2009 there have been four official reviews of the system (Dame Sue Street's 2010 review, Triennial stages one and two, and the Taylor review) and at least two thorough independent reviews (by the Police Foundation and the Centre for Social Justice). SCYJ believes another full governance review is wholly unnecessary. Rather than a wholesale governance review, the government should consider reviewing the probation inspection model and national standards. The probation inspection model has not kept up with the general shift towards devolution, and is often focused on process over outcomes. The government should look at how to address this.
20. We note that the government is proposing new national standards in respect of the custodial estate for children. We believe these are justified by the evident deterioration in custody over the past twelve months and before that, but lay out our questions, concerns and thoughts on these new standards in the custody section below.
21. The development of new national standards for youth custody provides an opportunity to review and simplify the existing standards that apply to services across the whole youth justice system, so as to encourage local innovation, as championed by Taylor, but within an overarching national framework. We would urge the government to carry out a thorough consultation process around such an initiative, so that the new standards can be informed by expertise throughout the system, and then owned by all with a direct interest in youth justice services.
22. We are very disappointed that the government has not accepted, or even engaged with, Taylor's recommendation to devolve the custody budget. We have long argued for devolution of the budget, which we believe would hold significant benefits in terms of investment in prevention and bringing down the custody population. In addition, it would fit well with recent changes to local government structures (particularly city government), the wider drive towards budget devolution and commissioning hubs. SCYJ is also open to devolving other youth justice budgets, including court budgets.
23. Currently, local areas do not bear all of the direct costs of children's heightened involvement with the justice system (they do not pay for custody) or make savings if this is avoided. Because custody is funded centrally, it is currently from a local authority point of view, a 'free good'; there is no financial incentive to seek to prevent a child being incarcerated. SCYJ believes that devolving the custody budget would provide a financial incentive for local authorities to invest more in prevention and engage with children who have offended. It would also contribute to lowering the custody population. The government's Youth Justice Reinvestment Custody Pathfinder resulted in reductions in the



number of custody bed nights over both pilot sites.⁴ We urge the government to explain why it has not accepted Taylor's recommendation, and encourage it to reconsider.

24. SCYJ notes the government's plans to introduce a head of operations. Posts within the National Offender Management Service (NOMS) and the Youth Justice Board (YJB) currently fulfil these functions. We welcome the proposal that the current commissioning and governance arrangements around custody should be strengthened but would be concerned to see these removed from the YJB. We believe that the new director should have expertise in criminal justice and children's services and, again, this points to their being located in the YJB. At its heart, this is a commissioning role and what is required is that the government gives the YJB more authority to exercise its statutory function exercised on behalf of the Secretary of State, especially in its relationship with NOMS. The simplest way in which this could be achieved is to ensure that the Secretary of State, or her ministerial colleague, exercises regular oversight over the exercise of this function. This does not require, in our view, any amendment to existing statutes, but it does require a change in mindset by Ministers and their senior civil servants, to ensure there is direct access to the YJB senior official. It is important that the role does not sit within NOMS, who are one of several providers of custodial services and as such should not also act as commissioner. We comment on the government's other proposals to improve custody below.

Health, Education, Prevention and Diversion

Taylor's recommendations

25. Taylor argues that a "criminal justice response alone is not sufficient to deal with children who offend" (para 5) and that contact with the system can make reoffending more likely. He is critical of health and educational services' engagement with children who offend (para 28 and 32), and of the availability and delivery of CAMHS services (para 25). He asks commissioners and providers to "rethink the way that mental health support is provided to children who are at risk" (para 27). Other measures, such as devolving custody budgets and removing the statutory duty for YOTs (see above) would, he argues, increase integration of services. He recommends that all local authorities, police forces and health services should jointly operate diversion schemes for children who offend (para 59).

The government's response

26. The government has responded by saying it will work with NHS England to develop specialist Children and Adolescent Mental Health Services (CAMHS) for children with complex needs (para 47). In so doing it will work to ensure the availability of community based services. The government's response is clear that it views early intervention and prevention work as key to reducing offending by children. It commits to working with the Home Office, Department for Education (DfE) and YJB "to gather information and share best practice across the system to inform further preventative work" (para 45). It will also work with NHS England, DfE and community health providers "to improve how children and young people are assessed and ensure they get the treatment they need at the earliest possible stage" (para 15). In addition, it will work with NHS England and the Home Office on Liaison and Diversion services (para 47). The government does not respond to Taylor's recommendation on jointly operated diversion schemes in all areas.

SCYJ's position

27. SCYJ strongly agrees with Taylor's contention that a "criminal justice response alone is not sufficient to deal with children who offend", and that links should be strengthened between justice and other services, particularly health, education and the voluntary sector. We therefore welcome the government's proposal to gather and share information on

⁴ See, Ministry of Justice, 2015, *Youth Justice Reinvestment Custody Pathfinder: final process evaluation report*, accessed at: https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/414123/youth-justice-reinvestment-custody-pathfinder-final-evaluation-report.pdf

prevention work, as well as its stated commitment to prevention work. This is a complex area and we believe it essential that the academic community should be involved.

28. Prevention work must be grounded in evidence. As stated by Taylor, there is strong evidence that contact with the criminal justice system is criminogenic.⁵ Therefore, prevention work should be delivered outside the justice system, otherwise it may be counterproductive. Prevention work should be delivered by non-justice services, such as children's services, health, or the voluntary and community sector, including grassroots and community-based organisations. Such work can of course be funded by justice budgets, or through a range of funders. Similarly, targeting children for prevention programmes can be stigmatising and criminogenic.⁶ For these reasons, "preventative interventions are best presented and justified 'in terms of children's existing needs and problems, rather than future risk of criminality'".⁷ It is also beneficial for programmes to be strength-based, rather than just problem and need based.⁸
29. Prevention programmes must be grounded in principles informed by the evidence. As set out by the Centre for Social Justice,⁹ research suggests that key principles for effective prevention include: targeting multiple risk factors over a sustained period of time; focus on strengthening protective factors; engaging children's families; delivering interventions as fast as possible in a "natural environment"; delivering therapeutic interventions with high quality implementation; and delivering programmes that are flexible in responding to the holistic needs of individuals. Lessons should be learnt from the evidence when designing and delivering interventions locally, for instance, lessons can be learnt from the Realising Ambition programme, which looks at replicating programmes to prevent children entering the justice system.¹⁰
30. Though we welcome the government's commitment, we do not believe anything in its response will ensure prevention or early-intervention work is sufficiently funded or available. There have been significant and ongoing cuts to children's services which threaten to jeopardise prevention work, which in turn will have an impact on entry into the formal justice system. SCYJ members' experiences supporting commissioners and the rollout of liaison and diversion services locally, highlight continuing cuts and gaps in care pathways affecting prevention services. For example, many areas have had their Connexions budgets severely cut or scrapped entirely. As above, SCYJ believes the best way to ensure investment and availability of prevention, diversion, and the increased integration of justice and other services, is through devolving budgets. The government needs a much clearer plan on how it will ensure prevention and early intervention work is available and, as above, explain why it does not support devolution of budgets at this stage.
31. We have similar concerns around the government's commitment to work to "improve how children and young people are assessed and ensure they get the treatment they need at the earliest possible stage". This is a laudable ambition but we know that a major barrier to improving services is a lack of investment in such services. SCYJ believes that at the first point of contact with the youth justice system, children should be screened for needs and

⁵ See, for example, McAra, L and McVie, S (2011) 'Youth Justice? The Impact of System Contact on Patterns of Desistance' In: Farrall, S and others (eds) (2011) *Escape Routes: Contemporary Perspectives on Life After Punishment*. London: Routledge, 81-106.

⁶ Centre for Social Justice, 2012, *Rules of Engagement: Changing the heart of youth justice*, accessed at <http://www.centreforsocialjustice.org.uk/library/rules-engagement-changing-heart-youth-justice>

⁷ Centre for Social Justice, 2012, *Rules of Engagement: Changing the heart of youth justice*, accessed at <http://www.centreforsocialjustice.org.uk/library/rules-engagement-changing-heart-youth-justice>

⁸ McNeill, F., Farrall, S., Lightowler, C., and Maruna, S., 2012, "How and why people stop offending: Discovering desistance – Insight 15: <https://www.iriss.org.uk/resources/insights/how-why-people-stop-offending-discovering-desistance>

⁹ Centre for Social Justice, 2012, *Rules of Engagement: Changing the heart of youth justice*, accessed at <http://www.centreforsocialjustice.org.uk/library/rules-engagement-changing-heart-youth-justice>

¹⁰ See <https://www.catch-22.org.uk/services/realising-ambition/>



integrated, evidence-based health and social support delivered where relevant. In addition, unless the inclusion of health workers in YOTs is monitored and enforced, the government's ambition is unlikely to be achieved. There is currently insufficient resource to cover the whole justice pathway from first police contact to sentence (and custodial and resettlement support is often left out of the planning altogether – reliant on patchily available YOT health practitioner input). The success of any of these diversionary activities relies on an effective preventative diversionary infrastructure and this is often missing. Furthermore, based on the experience of national rollout, workers in all-age diversion approaches currently struggle to stretch resources to cover adequately the very different pathways and needs of children. There is a need for a bespoke child centred diversion approach linked to youth justice services for vulnerable children and to local authority and health preventative support.

32. It is important to note that we cannot just develop myopic health responses for children in the youth justice system. For instance, the Centre for Mental Health work with MAC UK and with young African Caribbean men, indicated that these young men are underserved by, and will not readily engage with, mental health responses, and that voluntary and community organisations are important in engaging these groups. Local commissioners, the youth justice system, and liaison and diversion providers need to work closely with these voluntary sector groups. We are concerned that the role of the voluntary sector is undervalued in the government's response.
33. It is disappointing to find so few details of what is actually being proposed on prevention work or on integration of services. We urge the government to clarify how systems will be changed to improve access for children who offend to health assessment and services, and how it will ensure the presence of health workers in YOTs.
34. We are very disappointed that the government has not responded to Taylor's recommendation that "all local authorities, police forces and health services should jointly operate diversion schemes for children who offend". We are concerned that the government's response will not ensure liaison and diversion services will be available to most children. In addition, we are concerned that the government writes of diversion as if it is only achieved through NHS England liaison and diversion services. This is not the case and more attention is needed on other forms of diversion, such as Youth Triage, Youth Justice Liaison and Diversion, and other locally-devised schemes.
35. As above, the best evidence shows that criminal justice system contact is damaging; drawing children into the justice system goes against the evidence on reducing offending and reoffending. On this basis, SCYJ believes that increasing diversion from the justice system for lower level and other less serious offences, and increasing the consistency of diversion practices, must be central to any reform of the youth justice system. Diversion schemes should be grounded in evidence from diversion and desistance studies. The Centre for Justice innovation has identified a number of characteristics of effective diversion for children, including: children are referred to schemes promptly; schemes avoid labelling and stigmatising; interventions are targeted, therapeutic, and evidence-based; most children receive relatively light touch and informal interventions; and interventions are proportionate to the initial offending behaviour.¹¹
36. We urge the government to set out why it has not accepted Taylor's recommendation and reconsider its thinking on this matter. We make further comments in relation to health, prevention and diversion and BAME children below.
37. SCYJ would welcome clarification as to how recent announcements will intersect with reform of the youth justice system; in particular the government's announcement on

¹¹ Centre for Justice Innovation, 2016, "Valuing youth diversion - a toolkit": <http://justiceinnovation.org/wp-content/uploads/2015/08/Valuing-Youth-Diversion-A-Toolkit-1.pdf>



improving mental health support (with an emphasis on children and young people), and its emphasis on maturity, as set out in its response to the select committee inquiry into young adults in the justice system (for instance, committing to develop a tool measuring psycho social maturity and to develop a brain injury screening tool).

Police custody

Taylor's recommendations

38. Taylor writes that children should only be arrested and detained in police custody when absolutely necessary and for the shortest possible period of time (para 61); he recommends that alternatives, such as home or schools visits, are always considered before arrest (para 61). Among other things, he proposes that:
- ❖ Children are not held in police custody for longer than six hours unless, owing to the seriousness and complexity of the case, an inspector authorises an extension (para 62);
 - ❖ The Home Office re-examines the statutory review times for detained children with a view to reducing this to three hours (para 62);
 - ❖ The College of Policing introduces mandatory child-specific training for all custody sergeants, and girls in police custody are allocated a named female officer responsible for their welfare (para 70 and 71);
 - ❖ Protocols are established so “that all charging decisions take account of health screening assessments” (para74).
39. Taylor is concerned that the role of appropriate adult is “ill-understood and variably exercised” (para 65) and that there is a “lack of clarity over commissioning and accountability arrangements” (para 65). He recommends a set of mandatory national standards for appropriate adult schemes is developed and that inspection arrangements are reconsidered (para 67).
40. Taylor has highlighted the problem that children are detained overnight in police cells because local authority accommodation has not been sought. He welcomes the work of the Home Office and DfE to establish a concordat on this matter and says consideration should be given to the police being required to record information on the requests they make for local authority accommodation (para 75).

The government's response

41. The government has responded saying it will, “work with the Home Office and police to ensure children and young people are treated appropriately in police custody” (para 15). Little further detail is given. It says protections are available in police stations that would not be available in other settings (for instance, a home visit) and that the law is clear that girls in police custody should be under the care of a woman (para 52). It recognises “the need to divert children and young people from police custody where appropriate” but “any presumption that children and young people should not be arrested or brought into police stations would curtail the police’s ability to protect the public and victims” (para 52). No response is made to Taylor’s recommendation that local protocols should include a requirement that charging decisions should take into account a health screening assessment.
42. The government response explains that YOTs have responsibility for funding appropriate adult services and that the Home Office funds the National Appropriate Adult Network which provides services and supports best practice (para 51). The government commits to working with other departments “to explore changes to training and guidance... but recognises that there will be practical limits” on what can be provided when appropriate adults are parents or guardians (para 54). The government says the law is clear that children denied bail should be transferred to local authority accommodation. It will “work with the Home Office, police forces and local authorities to improve the monitoring and compliance of these requirements” (para 53).

SCYJ's position

43. As above, the best evidence shows that drawing children into the justice system increases the likelihood of offending and reoffending. We therefore strongly support Taylor's recommendations to minimise the arrest of children and to limit their presence in police stations. However, we acknowledge that this creates problems for multi-agency working. We also support his proposals to reduce the time limits on detaining children in police stations, to ensure police staff are trained to deal with children, and to ensure that health and welfare assessments are considered in charging decisions. Further thought is needed on what this training consists of, who it is delivered by, and how its completion is monitored. We are disappointed that these recommendations have been largely dismissed or not addressed by the government and would urge it to reconsider, or to set out its reasoning far more fully.
44. Liaison and diversion services struggle to pick up need at the early stages of contact with the youth justice system, this is particularly the case when children attend the police station voluntarily or are dealt with via a community resolution (which is increasingly the case). The all-age approach is a contributory factor here. We would like to see a return to child specific liaison and diversion services.
45. S.38 of the Crime and Disorder Act 1998 is clear that the responsibility to secure appropriate adult services lies with local authorities, not with YOTs, as stated. We agree with Taylor that inspection of appropriate adult services is problematic at present and we are disappointed that the government has not responded to Taylor's recommendations in this area. We note that, following a judicial review in 2013, the right to an appropriate adult has been expanded so that it now applies to 17 year olds too. This has greatly increased the requirement for appropriate adult services; however, additional money has not been provided. We would encourage the Home Office to provide additional funding for these services to the Department for Communities and Local Government.
46. The government acknowledges that Taylor makes 'a number of recommendations' on improving police custody. Given that the Ministry of Justice has had Taylor's report for more than six months, it is disappointing that the government's response on this issue is so vague. The draft Concordat on children in police custody published by the government represents a start, but only relates to children who have been charged with an offence, and appears to be still at draft stage. We are keen to understand more about how operation of the concordat will be monitored, by whom, and what information about this will be gathered.
47. When both the concordat is confirmed, and further changes have been announced, the SCYJ believes that it is important that the government puts its mind to how improved treatment will be monitored and performance reported.

Looked after children, BAME children and girls

Taylor's recommendations

48. Taylor is concerned by the over-criminalisation of looked after children, particularly in care homes. He recommends:
- ❖ Local authorities make sure that care home staff are properly trained to resolve minor incidents without recourse to the police, and protocols are established with police forces to agree a proportionate approach to offending in care homes (para 77);
 - ❖ Various bodies work together to ensure police apply full discretion in responding to incidents in children's homes, create a presumption of no formal criminal justice action being taken unless absolutely necessary, and consider adopting the schools protocol in relation to minor offences committed in children's homes (para 81).



49. He also recommends that “the police and local authorities must pay particular attention to the needs and characteristics of BAME children in designing and operating diversion schemes, and should monitor the rates at which these groups are diverted from court and formal sanctions compared to other children” (para 60). He welcomes the Lammy review and the opportunity it presents to look at the over-representation of BAME children in more detail (para 60).

The government’s response

50. The government has not supported Taylor’s recommendations on looked after children, and says that future work will be informed by the outcome of the Lammy review (para 49). In its response to the Narey Review into children’s residential care in England, the government committed to: develop a multi-agency concordat to reduce the unnecessary criminalisation of children in care; “set out in practice guidance the role a good children’s home takes to avoid unnecessarily criminalising young people, including the use of restorative justice and working with the police”; and work with NPCC to ensure officers are aware of the discretion available.¹²

SCYJ’s position

51. SCYJ is disappointed that the government has not adopted all of Taylor’s recommendations to prevent the over-criminalisation of looked after children, or those of the Laming Review, which reported in 2016.¹³ The unnecessary criminalisation of looked after children is completely unacceptable and the government has a duty to address it. We are concerned that the government did not address the Taylor’s recommendations in this area and urge it to implement all the recommendations made by the Laming Review.

52. We are concerned that too little attention has been paid to the issues around BAME children in the system. A Peer Power Peer Leader has asked, with regard to the over-representation of Looked After children and BAME children, “How are these numbers going to go down?” The government should provide a clear answer to this question. There is little attention for instance on the particular challenge of improving diversion, engagement and support for BAME children in the youth justice system. Lessons can be learnt from existing work. As above, for example, the Centre for Mental Health’s work with programmes on African Caribbean men indicated that involving the voluntary and community sector was particularly important in engaging this group with services. This work also found that, for this group, plans to progress should be co-produced, should ideally be driven by relationships and should place a priority on outreaching and being highly engaging. Positive peer role models and mentors are also important to supporting change. In addition, Catch 22 will soon publish research on tackling real and perceived bias in the system, and on how to ensure children feel they are treated fairly.

53. Little mention is made in either the Taylor Review, or the government’s response, of the distinct needs of girls in the justice system (other than in Taylor’s recommendations on police stations and secure schools). A distinct, gender sensitive approach is required to meet the needs of girls and to support them to stop offending. Consideration of these distinct needs should run through the government’s reform of the system.

Criminal records

Taylor’s recommendations

¹² Department for Education, 2016, “Government response to Sir Martin Narey’s Independent Review of Residential Care”:

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/579549/Government_response_to_Narey_review.pdf

¹³ Prison Reform Trust, 2016, “In Care, Out of Trouble”:

<http://www.prisonreformtrust.org.uk/Portals/0/Documents/care%20review%20full%20report.pdf>



54. Noting that the majority of children grow out of crime, Taylor argues the criminal records system should be “more sensitive to the transitory nature of much childhood offending, and to the limited future risk of offending that most crime committed in childhood actually present” (para 82). He argues a distinct system should be adopted for childhood offences including:

- ❖ Distinguishing between over- and under-15s (para 86);
- ❖ Reducing the periods before childhood convictions become spent (para 87);
- ❖ All childhood offending (with the exception of the most serious offences) becoming non-disclosable after a period of time (para 88);
- ❖ The circumstances in which police intelligence on childhood conduct can be disclosed being further restricted (para 89).

The government’s response

55. The government says it recognises that “criminal records in childhood can impact on future life chances” (para 77). However, it says it will look at this matter once its current court cases on criminal records have been resolved (para 77).

SCYJ’s position

56. SCYJ welcomes the government’s recognition of the problem, and its commitment to look at the issue. However, we believe the case for reform is clear. The government should commit to reforming the system and set out a time scale for doing so. The question should be, “how will we reform the system?” Not, “should the system be reformed?” SCYJ urges the government to withdraw from the court case it is appealing; the case is not a barrier to changing the law, it is the government’s choice to continue with it, the case should be dropped and the process of reform begun. SCYJ does not support Taylor’s recommendation to distinguish between over- and under-15s in terms of the treatment of criminal records; the age of a child does not indicate their maturity level and we believe all children should have equal rights.

Courts and sentencing

Taylor’s recommendations

57. Taylor writes about the difficulties children have in engaging with the court process, the challenges courts have in identifying and tackling the issues leading to children offending, and the lack of oversight courts have in a child’s progress (para 91, 94 and 95). He is clear that children should be dealt with outside court wherever possible and that, if court is necessary, the youth court is preferable to the Crown Court (para 100 and 105). He argues that where children are prosecuted, the process must be swift and intelligible, which requires adequately trained staff (para 101). He says standards of advocacy in the youth court need to be raised (para 104), that consideration should be given as to whether court hearings should only be required for guilty pleas (para 100), and that Crown Courts should do more to make the process less intimidating and more intelligible (para 106). His recommendations include:

- ❖ The judiciary should consider further what can be done to prioritise child cases (para 101);
- ❖ Court summons should make clear children should be accompanied in court (para 102);
- ❖ The Ministry of Justice should review the fee structure of youth court cases to improve the quality of advocacy, and legal practitioners should receive mandatory training (para 104);
- ❖ The Ministry of Justice should consider introducing a presumption that cases involving children are heard in the Youth Court, with senior judges brought in where necessary (para 105).

58. A central plank of Taylor’s proposed reforms of the youth justice system is the introduction of Children’s Panels which would replace most sentencing currently undertaken by courts. Children will be referred to the Panel when they plead guilty or are found guilty in a youth



court (para 109). The Panel, made up of three lay magistrates, will investigate the causes of a child's behaviour, including health, education and social care needs, and put in place a Plan to deal with them (para 110 and 108). The Panel will then oversee the Plan until its completion (para 108). The Plan will include positive goals, the child will be actively involved in its development, and it will include regular reviews by the Panel where, amongst other things, they will hold agencies to account for their role in the Plan (para 111, 112, 113 and 114).

59. Taylor recommends that plans made by Panels could include a period in custody. However, he believes short sentences are unproductive and recommends the minimum period for children to be detained should be six months (a 12 month DTO). Panels should only give children under-16 a Plan with a custodial element in exceptional circumstances (para 117). Where a child is sentenced to custody for serious offences by the Crown Court, they should be referred to a Panel to develop a Plan for their time in custody (para 121).

The government's response

60. The government indicates concern about the high numbers of children on remand who do not receive a custodial sentence (para 63), and has said it will "make the court experience more appropriate for young offenders... by removing unnecessary appearances in court and holding first remand hearings in the youth court rather than adult magistrates' courts" (para 15). It will also "ensure defendants, parents and guardians or local authority representatives are more efficiently notified of expectations to attend trials and sentencing hearings" (para 61). The government shares concerns about the quality of advocacy in the youth court and will "consider" whether further support should be available to young people in court (para 64). It appreciates concerns about use of the Crown Court but believes moving cases to the youth court raises questions on jury trial. It will "discuss these issues with the judiciary" and other parties (para 65).
61. The government has little to say about Taylor's proposed Children's Panels. It agrees that "sentencing must help young people to get the interventions they need to help reform their lives and prevent reoffending, and that the role of the judiciary in this could be further strengthened" (para 71). It says Children's Panels would "represent a radical new approach" and that it "support[s] the principles underpinning this recommendation" (para 71). However, it only says that it will work with YOTs and the YJB to develop its approach to sentencing reform and explore how the Taylor Review principles can be integrated into the current framework (para 75). No explanation is given for the rejection of Children's Panels, despite this being a major plank of Taylor's reforms, other than the fact a "range of legal and practical issues would need to be considered" (para 72).
62. The government argues that restricting the use of short sentences creates a risk of "perverse incentives". It wants to "work with the judiciary and youth justice professionals to better understand these risks and to improve the overall effectiveness of the youth sentencing framework" (para 74).

SCYJ's position

63. SCYJ believes the government proposals to improve court by "removing unnecessary appearances in court and holding first remand hearings in the youth court rather than adult magistrates' courts" have merit in themselves. However, they are an inadequate response to the case made by Taylor and others (for example the review of the youth court chaired by Lord Carlile)¹⁴ for much more profound changes to the way in which children experience the court system. There are fundamental problems for children with both the youth and Crown Courts, and this is a serious concern. What is more, there is no evidence

¹⁴ Carlile, A., 2014, "Independent Parliamentarians' Inquiry into the Operation and Effectiveness of the Youth Court": http://michaelsieff-foundation.org.uk/content/inquiry_into_the_operation_and_effectiveness_of_the_youth_court-uk-carlile-inquiry.pdf

that remand will be dealt with better in the youth court. Research is required into why remand is overused, particularly in light of the changes introduced by the Legal Aid, Sentencing and Punishment of Offenders (LASPO) Act 2012. The Prison Reform Trust gathered information on this matter in 2009 and published a briefing, "Children: innocent until proven guilty".¹⁵ However, academic research is required, particularly given the recent LASPO changes, and we would urge the government to commission this.

64. We are disappointed that the government's response in this area is not more thorough; it has not addressed the important concerns raised by Taylor and others, set out an alternative vision as to how they will be remedied, or given an adequate explanation as to why his recommendations have been rejected. We are particularly concerned that Taylor's proposals on diversion have barely been addressed and no mechanism "with teeth" is proposed to ensure there is adequate commissioning that meets children's needs.
65. As stated above, there is a strong body of evidence to show that drawing children into the justice system makes offending and reoffending more likely. SCYJ has long argued for the diversion of children from court. We are interested in Taylor's vision of Children's Panels, which we believe could be a positive way to divert children from court and to increase the effectiveness of sentencing. We would like to see most children diverted from court to a non-criminal system that tackles children's behaviour. Such a system should be grounded in evidence, and so should: be less formal and non-adversarial to facilitate children's participation; take a problem solving approach, addressing the underlying causes of offending by involving families and support services; build relationships and recognise progress; build on children's strengths; and include a restorative element by involving the participation of victims.¹⁶ The experience, training and knowledge of those sitting on the panels would also be key. We are disappointed that the government has dismissed Taylor's idea out of hand, without explaining why.
66. We do however welcome the government's commitment to integrate Taylor principles into the current sentencing framework, and to the apparent commitment to revisit sentencing reform. However, we note that the principles summarised by the government in paragraph 73 do not entirely reflect those outlined by Taylor. For instance, Taylor states that the same people must monitor a child throughout the duration of their Plan. He writes that: "Monitoring and follow up by a single person is viewed as an essential component in the success of problem-solving courts in the United States, and there is evidence that a key factor in children stopping offending is feeling that they are held in mind by somebody of substance who has their best interests at heart and believes they can change". This element is missing from the government's listed principles.
67. SCYJ believes fundamental changes need to be made to youth and Crown Court trials if they are to deliver justice for children. We are, again, disappointed that the government has not engaged with these issues in its response. We support Taylor's calls for mandatory training for lawyers in the youth court, and a revision of fee structures, and consider the government's response to these proposals to be weak.
68. SCYJ agrees with Taylor that the youth court is the far more appropriate setting for children and support his proposal for a presumption that cases will be heard there. However, we also accept the government's concern on trial by jury. We would however like to see the government make a more definite commitment to resolving this problem than simply "discussing the issues" with the judiciary and other parties. Taylor and his team consulted widely with the judiciary when developing their proposals.

¹⁵ Accessible at: [http://www.prisonreformtrust.org.uk/uploads/documents/children-innocent%20until%20proven%20guilty%20\(report\)\(1\).pdf](http://www.prisonreformtrust.org.uk/uploads/documents/children-innocent%20until%20proven%20guilty%20(report)(1).pdf)

¹⁶ Carlile, A., 2014, "Independent Parliamentarians' Inquiry into the Operation and Effectiveness of the Youth Court": http://michaelsieff-foundation.org.uk/content/inquiry_into_the_operation_and_effectiveness_of_the_youth_court-uk-carlile-inquiry.pdf



Consulting them again appears repetitive and unnecessary. We believe the government should actively consider the option of a mini-jury within the youth court. It is also vital that magistrates and district judges are suitably trained, particularly since many are now sitting infrequently and there are a greater number of more serious cases coming to the youth court. We urge the government to work with the Magistrates Association and the Judicial College to ensure suitable training is provided.

69. SCYJ is concerned by the impact of court closures, which result in children and YOTs travelling significant distances to attend court. This is a particular issue for children and their families on low incomes. We do not support the increased use of video-link as we believe it inhibits children's meaningful participation in proceedings. Instead, we urge the government to consider recommendations made by Justice on developing "flexible justice spaces", including "pop-up courts" to hear less serious cases, for instance in council or other civic buildings, libraries and community centres.¹⁷ These have a dual advantage for children; as well as being in the child's local area, they would be less formal settings, so encouraging children's participation in proceedings.
70. SCYJ is not convinced by Taylor's proposals to limit the use of short custodial sentences. Instead we support raising the custody threshold via statute so that only children who pose a risk to the public are sentenced to custody. Under both domestic and international law, a custodial sentence must be imposed only as a "measure of last resort". This is not the case in practice. Raising the custody threshold would help to ensure the youth justice system respected children's rights under the UNCRC, and would reflect the fact that custody is damaging to children, whilst effective alternatives are available. SCYJ's 2010 paper, "Raising the Custody Threshold"¹⁸ sets out our position more thoroughly; in it we detail how comparable legislation in Canada reduced the child custody population, and how the overall child crime rate fell.
71. We support Taylor's proposal to introduce a presumption that children under 16 only receive custodial sentences in "exceptional circumstances, and usually where they pose a significant risk to the public." We hope the government will use its review of sentencing, above, to revisit the custody threshold. In addition, reforms need to be made to community provision, particularly the availability of health, education and welfare services, so that custody does not become the option of last resort so quickly.

Reporting restrictions

Taylor's recommendations

72. Taylor is concerned by the operation of the reporting restrictions framework and recommends that the Ministry of Justice considers "whether the law on youth reporting restrictions should be amended to provide for them to apply automatically in the Crown Court, to children involved in criminal investigations and for the lifetime of young defendants" (para 107).

The government's response

73. The government says that expanding reporting restrictions "raises the significant issue of open justice". It says it will "discuss these proposals with interested parties, including the Home Office, media and youth justice interest groups" and "consider the appropriate way forward" (para 66).

SCYJ's position

74. SCYJ agrees with Taylor's recommendations. Our principled position is that that no child accused or convicted of a crime should be identified, unless it is required to apprehend a

¹⁷ Justice, 2016, *What is a court?*, <https://2bquk8cdew6192tsu41lay8t-wpengine.netdna-ssl.com/wp-content/uploads/2016/05/JUSTICE-What-is-a-Court-Report-2016.pdf>

¹⁸ Standing Committee for Youth Justice, 2010, *Raising the custody threshold*, http://scyj.org.uk/wp-content/uploads/2014/03/Raising_the_custody_threshold_FullDocAug10_FINAL.pdf



child unlawfully at large. We welcome the government's commitment to look into the matter. However, we believe strongly that a timetable needs to be set. The arguments are well rehearsed, the media and other stakeholders have been consulted previously and the open justice principle must always be balanced against the child's enhanced right to privacy, and the requirements that the justice system promote the child's best interests and reintegration. The press have been given ample opportunity to address the issue of pre-charge naming and a timetable for action is now needed. In addition, at the very least, the government needs to give judges in criminal cases the option of providing children with post-18 anonymity, and set a timetable for doing so. We would advocate greater restrictions on the ability of Crown Courts to lift reporting restrictions.

Custody

Taylor's recommendations

75. Taylor states that the purpose of youth custody is to help children “overcome their difficulties, address the causes of their offending, and prepare them for successful reintegration into society when they are released” (para 124). He recommends fundamental change to the current youth custody system with education, health and welfare services integrated and at its core (e.g. para 131). He wants to see high quality education and improved mental health services embedded in custodial institutions, with therapeutic environments with psychologically informed approaches across youth custody (e.g. para 131). Taylor recommends a radical overhaul of the youth custodial estate with the creation of a network of secure schools to replace Young Offender Institutions (YOIs) and Secure Training Centres (STCs) (para 145). These smaller custodial establishments of up to 60-70 places should be located in the area they serve (para 141), and include the following features:
- ❖ Behaviour management in the hands of skilful, well-trained education, health and welfare support workers instead of security staff (para 144);
 - ❖ An improved and integrated health offer at its core with a psychologically-informed ethos running through all interactions with children (para 143);
 - ❖ Schools to work closely with parents and have ties to education and other services in the community to aid effective resettlement and access to education, training or work after release (para 142).
76. Taylor is clear that, “In developing a network of Secure Schools, the Ministry of Justice and Department for Education must give particular attention to the provision for girls” (para 148).

The government's response

77. The government has committed to piloting two secure schools initially, however it says it agrees with Taylor's “vision” for the estate, namely the decommissioning of YOIs and STCs (para 121 and 122). There is little detail about what secure schools will look like, no time frame is given and no mention is made of provision for girls. In addition to the secure school pilots, the government commits to making a number of changes to YOIs and STCs. The government's proposed reforms to the existing custodial estate aim to improve outcomes and tackle violence, and include:
- ❖ Putting education and health at the heart of youth custody by developing “a new pre-apprenticeship training pathway that will start in custody” (para 19);
 - ❖ Empowering governors “so that they can better help to reform young people” (para 19);
 - ❖ Boosting the number of staff on the operational frontline in Young Offender Institutions (YOIs) by 20% (para 19);
 - ❖ Developing additional specialist support units with a higher staff to young person ratio’ (para 19);
 - ❖ Introducing a new Youth Justice Officer role (para 19);
 - ❖ Each young person will having a dedicated officer who is responsible for “challenging them supporting them to reform” (para 19).



78. In addition, the government wants to create new national standards for the secure estate and to strengthen custody inspection arrangements (para 33 and 36).

SCYJ's position

79. SCYJ welcomes the commitment to put health and education at the heart of custody, while observing that Taylor adds 'desistance programmes' to this list of issues that need to be placed 'at the heart of work to rehabilitate children' (para 141). We would welcome assurance that such programmes will be included. These programmes should be evidence-based and adhere to the principles of effective desistance work, including: building relationships;¹⁹ focusing on and developing strengths; supporting self-belief, hope and 're-biography'; and building reward and recognition into work.²⁰ In addition, the Centre for Mental Health report that children are also increasingly saying they want to co-produce plans to move forward. There must be scope to personalise programmes to children's needs and co-producing plans to move forward should be considered. There is much scope to integrate time spent in custody with programmes run in the community, and SCYJ believes that more could have been made of this aspect both in Taylor and in the government's response. In particular, we note the YJB's decision to withdraw funding from the Resettlement Consortia it established in 2014. We believe this was a mistake, and call on the government to review this decision before such Consortia cease to exist in April 2017 (though this may not be necessary if custody budgets were delegated).
80. The government has committed to boosting the number of staff in YOIs by 20%. Improving staffing ratios in YOIs would improve custody for children, but we do not believe that the existing staffing levels represent the most important weakness of the YOI and STC model, and nor do we believe that a 20% rise in numbers will prove to make a significant difference in children's principal criticisms of custody as reported by HM Inspector of Prisons (not enough help provided to address offending behaviour, not feeling safe in custody, and the general climate of violence within YOIs and STCs).²¹
81. We welcome the proposal to introduce a new youth justice officer role, and look forward to seeing how many such officers can be appointed within the £20m set aside to support these reforms. The training these officers receive will be key to whether or not they can be successful. The government should consider requiring officers to hold recognised qualifications to work with children, as is required of Secure Children's Home (SCH) staff. Officers should receive several weeks of youth justice specific training, this should include: child development; duty of care; children's cognitive abilities; mental health, learning disability, and speech and language disability awareness; developing positive relationships; the impact of behaviour, language, tone of voice and body language; and the causes of behavioural problems in children.²²

¹⁹ Drake, D. Fergusson, R. and Briggs, D. B. (2014) 'Hearing new voices: Re-viewing Youth Justice Policy through Practitioners' Relationships with Young People, *Youth Justice*, 14 (1), pp.22-39; Gray, E. (2013) *What Happens to Persistent and Serious Young Offenders When They Grow Up: A Follow-Up Study of the First Recipients of Intensive Supervision and Surveillance*, London: Youth Justice Board; Phoenix, J. and Kelly, L. (2013) "You have to do it for yourself: Responsibilization in Youth Justice and Young People's Situated Knowledge of Youth Justice Practice", *British Journal of Criminology*, 53, pp.419-437; Mason, P. and Prior, D., 2008, *Engaging Young People who Offend*, Youth Justice Board:

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/356204/Final_EYP_source.pdf

²⁰ See for instance: Maruna S and LaBel T (2010) 'The desistance paradigm in correctional practice: from programmes to lives' in F. McNeill, P. Raynor and C. Trotter (eds.) *Offender Supervision: New directions in theory, research and practice*, Oxon: Willan Publishing; McNeill F and Weaver B (2010) 'Changing Lives? Desistance Research and Offender Management', Report No.03/2010, The Scottish Centre for Crime and Justice Research, *Project Report; No.03/2010*; <http://blogs.iriss.org.uk/discoveringdesistance/useful-resources/> and <https://www.iriss.org.uk/resources/insights/how-why-people-stop-offending-discovering-desistance>

²¹ HMI Prisons, 2016, *Children in Custody 2015-16*, https://www.justicespectorates.gov.uk/hmiprisons/wp-content/uploads/sites/4/2016/11/Children-in-Custody-2015-16_WEB.pdf

²² Centre for Social Justice, 2012, *Rules of Engagement: Changing the heart of youth justice*, accessed at <http://www.centreforsocialjustice.org.uk/library/rules-engagement-changing-heart-youth-justice>



82. Likewise, we welcome commitments to develop additional specialist support units, and look forward to seeing detailed plans for how many such units will be established, on what basis, and where funding will come from, in due course.
83. We welcome the proposal for each child to have a dedicated officer, although past systems have had limited influence, mainly as a consequence of: regular changes in personnel; lack of contact time between the officer and child; lack of suitable training for the role; and the inability to sustain such relationships once a child leaves custody. We would welcome discussions with the government regarding how they feel these common criticisms will be overcome by the new system. There may be interesting lessons to learn from Diagrama's work with children in custody where children have a personal officer who can follow them into the community.
84. SCYJ strongly supports the government's vision to phase-out STCs and YOIs; we are extremely pleased the government has acknowledged these institutions are not fit for purpose. We strongly agree that STCs and YOIs should be abolished and urge the government to put an estimated timeframe on decommissioning. We are open to the government's proposed secure schools at present, on which little information has been provided, so long as they are:
- ❖ Small;
 - ❖ Therapeutic, psychologically informed environments;
 - ❖ Staffed at levels and by people with skills to enable a focus on areas such as education, health and the building of desistance (staff should have recognised qualifications for work with vulnerable children, as SCH staff do, and receive substantial youth justice specific training, including covering the topics outlined in our comments on the youth justice officer role, above);
 - ❖ Linked to local resources so that children in custody can make much greater use of community facilities once issues of public safety have been addressed;
 - ❖ Close to the child's home area to secure family and community contacts and enhance resettlement work.
85. Secure schools can only work if they can help children to become education ready. As a Peer Power Peer leader has said, "[education focussed secure schools] could really work, however to make it work, we need to fix the things that are lacking first, and go back to basics, for example being better at relationships and communication."
86. At this stage it is not clear whether the two new secure schools will have the above characteristics, but if they do they will have our enthusiastic support. However, we are concerned that Taylor's proposed secure school size (60-70 bed) is too large and hope the government's proposed model will be smaller. We would also urge the government to consider expanding the SCHs sector instead of introducing another form of child custody. The introduction of secure schools will mean that England and Wales operate four distinctive models of custody for a population of only 900 (and we would hope this can be further reduced). On one level this does open up some limited possibility of greater placement choice but it also introduces a further random element to placement, which is less desirable. We understand why the government will wish to pilot a new model of custody but we would urge that the risks of operating such a differentiated model for such a small group of children is factored into the appropriate risk registers.
87. As above, secure school staff will need to have the qualifications, experience and training to work with children in custody. Secure Children's Homes staff are all required to be qualified to work with children and young people, to at least NVQ level, and there are no separate security staff. All staff in Diagrama's custodial institutions are university educated, apart from security, kitchen and cleaning staff. In total they estimate that 85% of custodial staff are university educated. Staff are trained on a variety of subjects, including



brain development, safeguarding, children's rights, drugs interventions, and mental health, with training tailored to the needs and experiences of the individual.

88. We are concerned that the government has made no mention of Taylor's recommendation on the distinct needs of girls, and we urge it to give this matter greater consideration. The number of girls in custody is now so small – there were 25 in custody as of November 2016²³ – that we would question the need for them to be held anywhere but SCHs. If girls were to be held in secure schools, serious consideration would need to be given to ensuring their distinct needs are met.
89. Even as outlined by Taylor, two secure schools could only accommodate, at most, about a tenth of all children in custody. Furthermore no time scales are attached to this secure school commitment, and nor are more details forthcoming about what a secure school is, or how they will be evaluated. We urge the government to set out the criteria against which the pilot will be evaluated, the threshold that will determine whether the model will be rolled out more widely, and the timetable for wider rollout if the pilot is deemed a success. Lastly the government has not explained how placements in these two secure schools would be funded. If this funding is to be from within existing resources, then crucial disinvestment will need to be made elsewhere. This decision will be central to our overall assessment of this new policy.
90. We would welcome further discussion on these points with officials responsible for developing a specification for the schools.
91. SCYJ welcomes the creation of new national standards for the secure estate and the strengthening of custody arrangements; these arrangements need to be carried out at arm's length from government and there should be parliamentary scrutiny of this work. We would welcome assurance that this will be the case. If these recommendations are implemented, SCYJ would also support the government's commitment to "empower governors". We caution however that it will be difficult to develop standards applicable to the variety of institutions that exist across the secure estate (from YOIs to SCHs). We would recommend that the proposed standards be integrated into the National Standards for Youth Justice. Child custody must comply with a variety of different standards, including human rights standards, HM Inspectorate of Prisons expectations, and various pieces of legislation, such as the Secure Training Centre Rules. We would welcome clarification as to how the proposed national standards would intersect with these other requirements.
92. If the government is to develop national standards for custody, it is important that academics are involved in their design, as they were with Asset Plus, to ensure that they are evidence-based. Any standards should be grounded in a clearly articulated "theory of change", which is lacking from most of the secure estate at present. The government should consider how custody will help children reduce risk factors predisposing them to behavioural problems as well as helping them change their behaviour and develop evidence informed standards from such a theory. We are concerned that the fourth of the government's proposed standards relates to security. Children rarely, if ever, escape from custody; they abscond on occasion but very rarely commit offences when they do. We are concerned that policy is being determined by events in the adult estate which should not be the case. To be effective, and UNCRC compliant, the youth justice system should be distinct. National standards should be designed around the particular needs of children and the youth secure estate, not borrowed from the adult system or based around that system's needs.

²³ Ministry of Justice/YJB, 2017, Youth custody report: November 2016, accessed via: <https://www.gov.uk/government/statistics/youth-custody-data>



Resettlement

Taylor's recommendations

93. Taylor states that effective resettlement requires a coordinated approach (para 150) and he highlights the current difficulty of a disjointed system in which responsibilities are divided between different bodies, with little incentive for each to manage resettlement (para 153). Taylor argues secure schools and devolution of budgets will help to address this problem but he also recommends that:

- ❖ Local authorities should always aim to retain the same social worker during a child's time in custody (para 151);
- ❖ Local authorities should ensure that all children know where they will live at least two weeks before release (para 153).

The government's response

94. The government makes various commitments to improve resettlement, including:

- ❖ Strengthening its partnerships with voluntary and community organisations to "increase the support available for young people leaving custody" and provide them with mentors (para 92);
- ❖ Ensure each detained child has a learning plan with clear goals including what their "education, employment or training destination will be when he or she leaves the establishment" (para 90);
- ❖ Develop a Youth Custody Apprenticeship Pathway to offer children and young people training opportunities that will count towards the completion of a formal apprenticeship on release. It will build partnerships to develop training and secure apprenticeships for children leaving custody (para 91).

95. It has not supported Taylor's recommendations to maintain the same social worker throughout the time in custody. Neither has it supported his recommendation that children know where they will live at least two weeks before release.

SCYJ's position

96. SCYJ is disappointed by the fact the government has not supported Taylor's recommendation to ensure children know where they will live at least two weeks before release. However, we would note that the relevant section of the current of Children Act standards require a local authority to hold a final sentence planning meeting at least ten working days before a child's release date, at which a series of elements need to be in place, including the child knowing where they will live on release.²⁴ We would welcome clarification from the government as to how it will ensure this duty is fulfilled. If implemented properly, this would significantly increase stability in children's lives and thus the prospects of effective resettlement.

97. We welcome other commitments to improve resettlement, and on ensuring continuity of education and training opportunities, though we are concerned that the government's thinking in this area does not go far enough. There is a disconnect between custody and community at the moment, and the relationship between the two needs to be reformed, with a view to making it more porous. Only a thorough overhaul of the relationship between custody and community will really address the challenges of resettlement. As above, the government should develop a "theory of change" for custody and develop resettlement plans from there.

98. The government should develop a long-term strategy for resettlement development, setting out how continuity and support on release will be achieved and measured. This should include particular consideration of girls' distinct needs. Custody support plans are welcome and should link to preparation for release, for example YOTs and local agencies should be involved in their development. We have heard reports that community organisations often struggle to access custody. This is extremely counterproductive and we would urge the government to rectify the situation.

²⁴ 2015 edition, para 8.80 of Volume 4

99. As above, we urge the government to review the decision to withdraw funding from the Resettlement Consortia it established in 2014. In addition, we are concerned that the government's commitments to improve resettlement do not provide the necessary incentives for local authorities. In a time of minimal resources, local authorities need financial incentives to facilitate effective resettlement. We support proposals for mentors in principle but would like to understand better how the government proposes to finance this; good mentors need to be fully trained and supported, which costs money. If the government goes ahead with mentoring, the voluntary sector should be involved.

The criminal records

100. Taylor recommends that the law should be amended to end the automatic looked after status for children remanded to youth custody (para 157). The government does not offer a response to this issue. SCYJ does not support Taylor's recommendation and believes children on remand should retain looked after status.

Concluding comments

101. While the SCYJ welcomes aspects of the government's response to Taylor's recommendations, we are disappointed that it has not engaged more with many of his proposals, specifically those that do not relate to the secure estate. We urge the government to provide a fuller response to all of Taylor's key recommendations.

102. The government last published plans for youth custody in January 2014, under the "Transforming Youth Custody" banner. While the headline proposal to establish a network of secure colleges was subsequently withdrawn there is much else in the plan that remains relevant to the matters under consideration in the response to the Taylor Review. It would be helpful if the government were to clarify which of the commitments made in 2014 for improving existing youth custodial provision were still its policy, for example changes to culture within YOIs, getting resettlement right, and potentially enhancing the role of the magistracy.

103. We would also warn the government against repeating the mistakes made when trying to introduce the secure college. It was never clear what the defining features of a secure college were and, to many, it simply appeared to be a YOI with a new sign outside and a more vulnerable population inside. If the government is to pursue the secure schools proposal, we would urge it to ensure its meaning is clear, and radically different from current, failing institutions.

104. It is imperative that any changes made to the youth justice system are thoroughly grounded in children's rights and the evidence on preventing offending and promoting desistance. Those that are will be supported by the SCYJ.

The contents of this document do not necessarily reflect the views of all member organisations of the SCYJ.

