



## Standing Committee for Youth Justice

### **SCYJ – Response to the Ministry of Justice ‘Secure Schools: How to Apply Guide’ Consultation**

#### **The Standing Committee for Youth Justice**

The Standing Committee for Youth Justice (SCYJ) is an alliance of fifty non-profit organisations working to improve the youth justice system in England and Wales. SCYJ’s members range from Barnardo’s, the NSPCC, and the Prison Reform trust, to Catch 22, NACRO, Khulisa, and Kinetic Youth. A full list is available on our website.

#### **General comment**

We applaud the level of detail provided by the Ministry of Justice (MoJ) in the draft document ‘*Secure Schools: How to Apply Guide*’. We understand that this is very much a first planning document, and that more detail will follow. This is a very promising start, and we would not wish some of our ensuing comments to be misunderstood as overall criticism of this approach.

We also found much that was refreshing and new in the document. For this reason we want to start by describing some of the strengths of the document from our perspective, before moving on to identify some gaps and weaknesses that we believe should be rectified at this stage.

#### **Strengths of the draft.**

A number of elements in the draft are very welcome. In particular we welcome that the government has:

- described the need to develop a child-focused provision, a specialised workforce, and individualised provision;
- acknowledged that existing youth custodial provision (by which we take the MoJ to mean Young Offender Institutions and Secure Training Centres) do not incorporate all these features;
- recognised the vulnerability of children in custody;
- restricted the opportunity to bid to provide secure schools to not for profit companies;
- committed to locating secure schools close to the communities they serve;
- acknowledged that any child sentenced or remanded to custody could be placed in a secure school;
- described the current racial disproportionality and made repeated references to David Lammy’s review of ‘*The treatment of, and outcomes for, Black, Asian and Minority Ethnic individuals in the criminal justice system*’;
- described the over-representation of children from care in custody; and
- rejected the use of restraint techniques that induce pain.



## **The place of cost in the overall assessment of applications**

We want clarification of the place that the cost of applications will play in the overall assessments of applications. At this moment this is our primary concern. We appreciate that all applicants must address the question of value for money, but cost has, in the past, been too central an issue in the award of custodial and other justice contracts.

We now understand, following discussion of this point at the 'Interested Stakeholders' event on the 17<sup>th</sup> July that the MoJ does have an indicative cost calculated, and we were reassured by the plan to publish this later this calendar year. It is our belief that the MoJ should in due course declare a funding envelope, we would suggest within the bracket currently allowed to secure children's home (which these Secure Schools will be), and that subsequent variation in costs between applications should occupy, at most, a position of marginal importance in the award decision. This is especially important at the early, pilot, stages of the transformation of the custodial estate for children to secure schools where costs of innovation will inevitably be high.

## **Children from black and minority ethnic backgrounds**

A number of references are made in the document to the particular position of children from Black, Asian and Minority Ethnic Communities (BAME) in regard to custody. This is positive, but the document understates the level of disproportionality by referring only to black children in custody (cited as 23% in 2016/17) whereas the government's most recent figures show that BAME children now constitute 48% of all children in custody. It is important that this potential misrepresentation is corrected.

We welcome that applications must show how an understanding of the issues of BAME children will inform interventions, but we believe there are also missed opportunities on this issue, even in an early document of this sort. As one such example, we would have welcomed the explicit identification in each application of the involvement of individuals with extensive experience and a strong track record in this area (*Section F1 – Demonstrating the experience and credentials need to open the school*), and there is also a clear case for making appropriate references in respect of training.

## **The size of the proposed Secure Schools**

The document describes that each secure school will accommodate between 60 and 70 children. At the recent consultation meeting, spokespeople described the schools as having between 60 and 80 places. Either is too large. We believe a secure school should accommodate not more than 35 children, a figure that is supported by the experience of secure children's homes and other institutions caring for troubled children. For example the Chair of the Youth Justice Board, Charlie Taylor, is on public record describing one Secure Children's Home as example of what he is advocating a Secure School to be ... but this is a home with, according Charlie Taylor on the 17<sup>th</sup> July 2018, a maximum capacity to care for 24 children.



Even were it to be the case that applications for larger secure schools could demonstrate economies of scale, and this proposition is untested, we believe for the reasons already given that this should be at most a marginal consideration in the awarding of contracts.

At the moment the draft also lacks detail of the circumstances in which it is planned the children in each school will live. We advocate homely and safe small group living arrangements for children within each school. Applicants should be encouraged to show how their proposals about residential arrangements reflect the current evidence base about 'good' design for children's residential care.

### **Locating secure schools 'close' to the communities they serve**

As already mentioned we welcome this commitment in the draft document, but remain keen to hear further what this actually means in terms of actual distance/travel time. For example, rumours continue that the Secure Training Centre at Medway may be 're-rolled' as a secure school. There are many reasons why we will strongly oppose any such move, but an obvious one that applies in this instance is that it is remote from the communities that a secure school principally for children from London will serve. We would welcome further clarification in the final document on the meaning of this phrase.

### **The place of health care services in a secure school**

The current draft is very short on details of how health care will be delivered in the secure school. The very limited detail contained in Annex B states that health care will be a separately contracted service, and then says very little else about this, in sharp contrast to the level of detail available now about the school. Such a separation feels like a missed opportunity. Our experience of international models of best practice suggests that the best overall care for children in custody is provided when services are jointly commissioned, and health care staff are embedded within the running of the centre. In particular it is important that health care staff are part of the senior management teams in each school, and that psychological staff are integrated into front line staff teams, or are based in living units.

### **Children in care or with recent care experience**

We welcome the reference to the specific duties in respect of some children in care (*Section D2 – Establishing each student's starting point, setting targets and measuring progress*) but for completeness we believe this paragraph should be extended to acknowledge the duties owed to all children in care, including both those who have acquired care status and those who have only lost their care status as a result of entering custody. We would hope that applicants will be required to demonstrate their understanding about the different – and complex – entitlements for all children in need, both those in care and also care leavers.

### **Safeguarding**

In anticipation that each new Local Safeguarding Partnership covering areas that include secure schools will include in their published plan their arrangements for



ensuring there are local multi agency arrangements for scrutinising safeguarding performance, we would welcome reference about what matters should be referred to this body.

In our view this should include:

- Children arriving at the school with no documentation;
- Outcomes of all disciplinary investigations into allegations of staff misconduct;
- Operation of the complaints system;
- Inadequate or incomplete resettlement arrangements;
- Injuries to children in custody, including incidents of self-harm;
- Late arrivals;
- Arrangements for managing behaviour of children in the school;
- Safeguarding/child protection referrals and concerns;
- Training available to different groups of staff on safeguarding, including both all the staff of the secure school and those of other agencies working in the school – such training needs to go beyond the immediate focus of what goes on in custody to include an acknowledgement of the wider context in which the school is placed (e.g. staff knowing how to respond to issues in the child's past, or the emergence of concerns about the risk of abuse on release from the school);
- Transportation of children to the school; and
- Trends and outliers in the use made of restraint and separation.

### **Restraint and pain inducing techniques**

We applaud the government's proposal to restrict the occasions on which restraint can be used in secure schools. However, we believe this is too fundamental issue to vary between individual schools as the document implies that it will. A national standard in respect of restraint techniques is required, and the government (in this case the MoJ together with the Department for Education and the Department of Health) should approve such a standard.

The sentence that *'pain inducing techniques will not be permitted in a secure school'*, welcome in itself, cannot be the final word on the subject of pain, not least because of the clear evidence that most of the current authorised restraint techniques cause pain. There is ample time for the government to seek the advice of a panel of experts on the subject, and we recommend that they do so.

### **Resettlement**

We found the section on resettlement slight, despite the importance of this subject. Secure schools are intended to represent a radical departure from current practice so we would recommend, amongst other things, that the government emphasise the importance of staff from secure schools retaining relationships with children after release when the sustaining of personal relationships has been identified in the child's plan as an important component of their rehabilitation. The inability of the main existing custodial institutions to support such contact is one of the most obvious failures of the current approach to resettlement.

There is an extensive research base on effective resettlement thanks to the work of our member NACRO and its *'Beyond Youth Custody'* programme. This should be



referenced in the final document, including the critical importance of planning from the outset, especially in respect of the provision of housing.

### **The experience and credentials needed to open a secure school**

We have already described the importance of adding reference to extensive experience and a strong track record in working with BAME children in *Section F - Capacity and Capability*. To the list we would also add experience in:

- Minimising social exclusion,
- Delivering effective therapeutic interventions, and
- Contract management (the performance of operators within the supply chain may be as important as the performance of the secure school itself).

### **Qualifications and training of staff in secure schools**

At the moment, the draft only describes the training needed for ‘*teachers of academic subjects*’ and ‘*care staff*’ (*Section F4 – Building a skilled, integrated and committed team*). It seems to us undesirable that staff roles should be restricted to these two groups; indeed we would anticipate they would be in a minority in any secure school. For example, there is good evidence to support the employment of youth workers with this group of children. There are other professionals, especially in health and health related services, who will work in the schools. For each of these groups, some specification of levels of qualification and training is essential. The MoJ should put its mind to this issue more fully.

### **Learning from people with lived experience of the youth and criminal justice systems**

We would also urge the MoJ to encourage potential secure schools to include the deployment of staff with lived experience of the youth and criminal justice systems in their application.

We also believe that people with lived experience should be part of the evaluation team of any final bids, as commissioners have much to learn from their experience at first hand.

### **A therapeutic environment**

Reference is made, both in the *Vision* and in *Section G1 – A therapeutic environment to live and learn in* to building a therapeutic environment in each secure school. In our experience this phrase is used widely and without precision. While we welcome the extra detail provided in *Annex C – Framework for integrated care* much more work is needed on this important component, which at the moment consists mainly of very vague statements. We would also prefer to see this material integrated into the main text, rather than contained in a separate Annex, which may be interpreted by some as a sign that this is an add-on to the main characteristics of the school. The level of disadvantage and trauma that a great many children in custody have experienced highlights the importance of this element of the secure school proposition, and it would be wrong, in our view, to leave each applicant alone to



articulate this. The Ministry needs to state clearly its view on what it thinks is likely to support children sent to a secure school to change. It is then the role of each applicant to take this vision and turn it into an operational proposal.

We recommend the MoJ convene an expert reference group to provide assistance in defining this area and identifying best practice both nationally and internationally.

### **Temporary release**

We believe the reference to the place of temporary release in the operation of each secure school (*Section D4 – Promoting good behaviour*) understates the importance of this issue. We believe that secure schools should be encouraged to make the maximum possible use of temporary release from the outset, that is as part of the initial planning for each child as well as within their ultimate resettlement plan.

### **Quality indicators**

We welcome the initial thoughts in relation of quality indicators to be found in *Annex D – Quality Indicators*. However, there are two general qualifications we would add to this.

First, many of the statements are general aspirations at this stage, and while these may be capable of specific measurement, such detail is not presented. It is important to see this in order to be satisfied that the specific measurements, *which will drive behaviours*, are consistent with the general aspirations.

Secondly, and more broadly, the document lacks a theory of change. This is a point that we could have made at several times in this commentary but this seems the most appropriate place to make it. Until the MoJ is clear about the changes it is seeking to set in motion at a secure school, and the specific place of the school in achieving (or at least commencing) such change, it is difficult to comment fully on these quality indicators.

We have some further immediate thoughts on these indicators:

- The reference to the importance of recruiting and retaining staff should not be restricted to specialist staff – the most important staff to children may not be specialists, and so the impact of poor recruitment and retention in other roles may have a bigger impact on the performance of the school;
- Maximum use should be made of the regular surveying of children’s views, particularly for example their thoughts on safety, bullying, help with behaviour change etc.; and
- Other measures that test ‘the journey travelled’ by a child while at a secure school should be included – see for example research published on the educational progress of looked after children (Sebba J and others [2015]).

### **Keeping children isolated from other children as a means of promoting good behaviour**

It is apparent from the ‘quality indicators’ listed in Annex D (see previous section of this response) that the government is anticipating the use of *‘keeping* [children in]



*isolation*’ as one means by which a secure school will promote good behaviour. This is an area that is worthy, even at this early stage, of further description, including the process by which such a decision may be made, the length of time it might be permitted to keep a child isolated, and the location and social interactions that would be permitted under such provision. It is important that the arrangements made by secure schools are framed within the provisions of the United Nations Convention on the Rights of the Child Children’s Rights and the European Convention on Human Rights. At no time should ‘isolation’ be used to restrict a child’s access to health care or education.

### **Other issues that we feel should be described at this stage**

We believe there are a small number of other issues that are so central to the secure school project that they are worthy of some description at this stage. These are

- How a secure school would build a non-bullying culture and react to specific instances of bullying;
- The importance of Key workers/personal staff;
- How the school will rebuild and maintain contact between each child and their family, and
- Policy on searching children.

We assume as the secure schools come nearer to launch that levels of specification will increase, even within the ‘*freedom and autonomy*’ philosophy that the government clearly values.

### **How the assessment of short listed applicants will be conducted**

We appreciate it is too early for the MoJ to set out the precise methods by which it will assess short listed applications, this remains a matter of key interest to us, not least in the area of cost as we have already described. We would also highlight here two recent publications by our member Clinks that provide useful guidance on commissioning services from the voluntary sector, ‘*More than a provider*’ and ‘*How to improve commissioning*’ <https://www.clinks.org/resources-reports>.

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

