



Northern Ireland
Assembly

Committee for Justice

OFFICIAL REPORT (Hansard)

Youth Justice Review: Changes to Custodial
Arrangements for Children

7 May 2014

NORTHERN IRELAND ASSEMBLY

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Members present for all or part of the proceedings:

Mr Paul Givan (Chairperson)
Mr Raymond McCartney (Deputy Chairperson)
Mr Sydney Anderson
Mr Stewart Dickson
Mr William Humphrey
Ms Rosaleen McCorley

Witnesses:

Ms Kiera Lloyd	Department of Justice
Ms Karen Pearson	Department of Justice
Ms Paula Jack	Youth Justice Agency

The Chairperson: Let me welcome Karen Pearson, deputy director of the reducing offending division; Paula Jack, chief executive of the Youth Justice Agency; and Kiera Lloyd, who is head of the youth justice unit in the reducing offending division of the Department of Justice. You are all very welcome to the meeting. As usual, the session will be recorded formally by Hansard, and the report will be published in due course. Karen, I will hand over to you.

Ms Karen Pearson (Department of Justice): As always, we are grateful to have the opportunity to brief the Committee on the outcome of the consultation on custodial arrangements for children in Northern Ireland. As you said, Chair, Kiera Lloyd and Paula Jack are with us, and we are happy to take any questions.

Members will recall that the consultation was launched in October 2013 and sought views on the development of legislative proposals to take forward the recommendation in the youth justice review that all under-18s should be removed from Hydebank Wood Young Offenders Centre (YOC) and placed in the juvenile justice centre at Woodlands.

We are focusing today on sentencing arrangements. That might seem a narrow focus when considered alongside the needs of victims and witnesses and the need for safer communities. So, we will be very pleased to take any questions on the operation of the Woodlands facility under Paula's leadership and the type of work that they do there with young offenders to help them rehabilitate and resettle. We also start with the two key principles that the sentencing of young people to custody is vital in the right cases and in the right circumstances and that having the right sentencing framework is important for public confidence as well as decision-taking. The recommendation to remove under-18s from Hydebank has been achieved administratively, and no children have been in Hydebank since November 2012. Legislative change is required to regularise that position and underpin it in statute.

Alongside that key principle, the consultation process looked at how that should be embedded in legislation and at some related matters.

I should mention at the outset that many aspects of the consultation focus on what we have termed less serious offences to distinguish our proposals from existing arrangements for the more serious offences. All the disposals, including community disposals at one end of the scale and custodial disposals for violent and sexual offences or grave offences at the other end of the scale, were not included in the consultation process. The consultation ran from December 2013 to January 2014, and we received 26 written responses, many of which were informed by the views of children and young people and their families. We also had six public consultation events over the period, including two events with parents groups. On the basis of the views received, a consultation summary of responses and a way forward document was developed. I think that you have that in your briefing packs.

The proposals that the Department is putting forward are a result of the consultation and are grounded in the recommendations of the youth justice review, the international framework of the United Nations Convention on the Rights of the Child (UNCRC) and the policy, practice and experience that has been built up over the years of operating a separate justice system for children. Children have always been recognised as having particular needs and vulnerabilities that the adult criminal justice system is not best placed to provide for. The biggest shift in emphasis over recent years has been in adjusting the system to recognise that young people aged 16 and 17 are children and need to be accommodated within a framework and at a location that provides age-appropriate arrangements for them. Another big cultural shift has been the change in the sentencing trends for younger children. The system itself has identified that the nature of custody is often unsuitable for younger children and is unlikely to encourage and support them in a way that helps them to change their behaviour. We note the extremely low number of young children in Woodlands over the past years, and we can give some figures, Chair, if you wish.

In that context, I am happy to summarise for the Committee our proposals, which are set out in more detail in our paper. In summary, the Department intends to repeal the juvenile justice centre order (JJCO) in its entirety and the young offenders centre order as it applies to under-18s and to replace both with one new order for all children. The new order would have a minimum sentence length of six months and a maximum of two years, although there would be an enabling provision to extend that to four years for 16- and 17-year-olds in certain circumstances. It would also incorporate a custodial/community split, with no more than half the order to be spent in custody. The judge would determine the exact split to be applied in individual cases at the point of sentencing, but, as a minimum, we propose that all children sentenced under the new order should serve at least three months in custody. Once released for the community part of the sentence, the child will be subject to supervision, with the Youth Justice Agency and the Probation Board working together closely, and any breach of the supervision element of the order will be brought before a judge for a hearing, with the ultimate sanction being a return to custody for any duration up to the remainder of the original order.

The Department is also proposing to remove children aged 13 and under from the scope of the new order in relation to less serious offences. I stress that all the disposals, including the possibility of detention under other sentencing options, would be retained for children aged 13 and under.

The new order would be prefaced with a reference to the spirit of the two key principles of the UN Convention on the Rights of the Child in relation to custody, so that a judge would be asked to bear in mind, in making a custodial order, that the best interests of the child should be a primary consideration and that custody should be seen as a last resort and for the least period of time.

Transitional arrangements would also be put in place to ensure that a child would not automatically be removed to Hydebank on their eighteenth birthday, although an upper age limit of 18 and a half would be established at Woodlands. And following 18 months of successful operation of the policy to not hold children in Hydebank Wood, the Department has concluded that an exceptional circumstances clause is not required.

That is a quick summary of the proposals. There is a lot of detail in the paper. We are very happy to take questions.

The Chairperson: Thank you very much, Karen. I will start with a couple of questions. The paper says:

"children aged 13 and under would be excluded from the scope of the new order. This would mean that no child under 14 could be sentenced to custody for committing 'less-serious' offences."

Obviously, I note that the "serious" offences refer to violent or sexual offences under the Criminal Justice (Northern Ireland) Order 2008. What are the "less serious" offences that you are talking about?

Ms Pearson: It may be helpful if Paula illustrated that by reference to some real cases — obviously, there is confidentiality around the child — relating to the sort of offences that might be relevant here.

Ms Paula Jack (Youth Justice Agency): You are quite right that these proposals do not relate to the more serious offences, so if you were talking about serious indictable offences, the provisions that currently exist would still apply for those. When it comes to the less serious offences, only a very small number of children who are 13 and under have received custodial sentences. The types of offences that we could be talking about include multiple repeated assaults of a low level or, potentially, an assault on police, for example, or if there is arrest for multiple care home issues where there have been assaults in a care home. It is low-level type offending where perhaps custody is seen as an option but should not be because there are perhaps better disposals for a young person of 13 or under who is in a situation of offending at that level and could be better helped by a community disposal with the right help from the health, education and justice agencies.

The Chairperson: Do you have the figures? You said that it is a very small number; how many is that?

Ms Jack: There were three in the past five years. They were actually 13, so we are not talking about any 10-, 11- or 12-year-olds.

The Chairperson: How long were they in custody for?

Ms Jack: None of them received more than 12 months.

The Chairperson: No under-18s are now kept at the YOC; you said that that has been the case since November 2012. Obviously, there had been a suggestion that the exceptional circumstances would be kept, but you are now deciding that that is no longer necessary. What grounds in the past 18 months have given you confidence that you would not need to legislate for something that is very difficult to ever predict and is therefore exceptional? Why would we not do that?

Ms Pearson: Again, I will turn to Paula who can answer on the basis of her experience.

Ms Jack: The proposals that have been put forward here are based on the evidence of what has happened in the years since we have been trying to do this. Although November 2012 was the last time that we had any 17-year-olds in Hydebank, the work had been going on for quite a period before that to remove the 17-year-olds from Hydebank Wood and into the juvenile justice centre. We are basing this policy on the evidence that we have from a number of years, and Woodlands is the best place to deal with young people of that age. We have improved our educational facility to look at more vocational training in the rehabilitation of that age group. We are also in the process of developing a forensic medical team, which is vital for some of the young people who come in with challenging difficulties with their mental health. Woodlands will be the best place to deal with any of these issues, and it is really about detention in a location as opposed to the need to move them to Hydebank for any behavioural reasons. There will never be that circumstance.

The Chairperson: Has there ever been a case in the past 18 months where someone has presented a real challenge and you have been close to saying, "I do not think that this individual can be kept here at Woodlands. We need to send them to Hydebank"?

Ms Jack: In answer to the first part of that question, yes, we have had some very challenging behaviour. That is not necessarily from 17-year-olds; that can be at any age. However, do we feel that we have to move them for that reason? No. It would not be about behaviour. That is the ethos that we developed over the period that we were working to achieve the Minister's aim that we move 17-year-olds from Hydebank Wood Prison in line with UNCRC principles that they should not be detained with adults. It is about making sure that we have got the right regime, the right ethos and the right way to deal with a young person of any age who presents with challenging behaviour.

The Chairperson: So, as things stand, there is no circumstance under which you can envisage someone being beyond the capability of being retained at Woodlands. You cannot envisage any circumstance where it could be exceptional.

Ms Pearson: At the moment, no, Chair. We think that we can cope.

Ms McCorley: Go raibh maith agat, a Chathaoirleach. Thanks very much for the presentation. I suppose that, with very young people such as those, the main purpose is to do the ultimate, which is to prevent reoffending, so that they will not then enter the main criminal justice system. What strategies are utilised to prevent reoffending?

Ms Pearson: Is this with children in Woodlands?

Ms McCorley: Yes, the younger community in Woodlands.

Ms Jack: If we are talking about younger children, the aim will be to keep them out of Woodlands. For example, if this policy was to come into effect in legislation, one of the things that we have introduced anyway in the Youth Justice Agency recently as a new policy is what we call intensive support and supervision. That is for all age ranges. The idea behind that is that when we assess that somebody is at high risk of reoffending, we will put as much resource into that young person as we can in order to make sure that we do all that we can to support them in the community with our partner agencies. For example, if a young person is given bail in relation to a number of offences, in order to, as you rightly say, help them to desist from offending, we will work as hard as we can with the programmes that we have and will put intensive supervision on to that young person to help prevent reoffending.

Within Woodlands, which is what you asked about, we have a wide range of rehabilitation and resettlement programmes for these young people. We always work very hard with them while they are there in order to address the cause of the offending behaviour. We also look at needs on their release from Woodlands, at rehabilitation, at reintroduction into the community and resettlement, at helping with education and employment and at all those issues. We have a wide range of programmes that we work through with young people, and we have highly qualified staff, too.

Ms Pearson: [*Inaudible.*] as well is very important.

Ms McCorley: I am trying to think about the difference between Woodlands and the YOC. You might have somebody who is 17 and a half in Woodlands and somebody who is 18 and a half in the YOC. What would be the main differences in their experience of being in those places?

Ms Pearson: The big difference is that Hydebank is a prison, and it is for the adult population; for offenders over the age of 18. Under the Minister's policy, there is a very different regime, physical set-up and style of engagement. Although fantastic things are being developed in Hydebank as well, those are appropriate to that age group, whereas Paula's younger people are in a smaller setting that is geared up for their particular needs as children.

Ms Jack: It is also key that the staff in the juvenile justice centre at Woodlands are qualified in social work. That is the regime that we run, and we have full educational facilities. I know that Hydebank is developing a lot of new facilities, but in Woodlands, the regime under the juvenile justice centre rules is that you will attend education, even at the age of 17 and a half, all day, Monday to Friday, during the school term.

Ms McCorley: How successful is the community part of a sentence? Do people end up being brought back into custody or does that generally work out?

Ms Pearson: It is a mix. It is case by case. I do not think that we have statistics with us on that, but we can provide them. Sorry.

Ms Kiera Lloyd (Department of Justice): We have knowledge of recall, so we know that the breaches of a YOC order or a JJCO are incredibly small and very limited. The Probation Board has told us that seven probation orders were breached in 2011-12 and breach proceedings were initiated in 2012-13 in respect of four orders, so the numbers are incredibly low for under-18s.

Ms Jack: The Probation Board and Youth Justice Agency work with young people released from custody to supervise.

Ms McCorley: Looking at it long-term, going back the ways, how do your figures nowadays compare with what might have been the case, say, 10 years ago? How successful are the strategies that you are employing now?

Ms Jack: There are very few young people in custody. In any event, we are seeing a trend towards the vast majority of our population being in the 16- to 17-year-old range. In working with the younger age range, many interventions are multi-departmental to work towards intervention at an early stage to prevent offending and reoffending. We will see over the years how effective those strategies are, but it is good to see that the custody population is at the higher young age range rather than the lower age range.

Mr Humphrey: Thanks very much for your presentation. Are you happy with the organisation in the targets you have in reducing the prospects of those young people reoffending? Are you on top of it or could more be done?

Ms Pearson: We can always say that more could be done. There is a broader range of partner organisations that we can bring in to help. For instance, the last time I was here, I mentioned that we were working closely with the Department of Health on a joint health strategy that will avert this population. As Paula outlined, a lot is already going on in the Woodlands facility. We will always be on the lookout for things we can add to that suite of interventions for the children.

Mr Humphrey: You mentioned health. In relation to drugs and drug problems in the estate, how many young people would you have in residence at a given time in both of the institutions you mentioned?

Ms Pearson: I can speak only for Woodlands. Yesterday, I think, Paula, we checked and there were 39 children.

Ms Lloyd: The normal figures for Hydebank Wood are around 160.

Mr Humphrey: So, 39 for Woodlands and Hydebank Wood —

Ms Lloyd: Around 160. They tend to hover around the 160 mark in Hydebank Wood.

Mr Humphrey: So, they tend to stay in and around that, but that is nothing to do with capacity; that is just the way it is.

Ms Lloyd: Those are just the overall numbers. In Hydebank, for 18- to 21-year-olds, the number would be around the 160 mark.

Mr Humphrey: What is the ratio of staff, for example, working with young people in Hydebank Wood?

Ms Pearson: Hydebank, I do not know. We could find that out. That would be a question primarily for the Prison Service. We can write.

Mr Humphrey: Do you have a drug problem at Woodlands?

Ms Jack: If you mean do the young people involved engage in behaviour that relates to drug offending and drug taking, yes, I think that is endemic in the population in both prisons and youth justice in that there are drug-related issues for offending behaviour. We do not have a drug problem inside Woodlands itself —

Mr Humphrey: You do not.

Ms Jack: No, but we do have challenging behaviours with young people who have come into Woodlands who have engaged in drug taking and may need quite serious and challenging medical interventions to address their behaviour and offending history because of their drug-taking issues.

Mr Humphrey: Obviously, the Minister has admitted that there is a drugs problem in the wider prisons estate. Does that not exist in Woodlands?

Ms Jack: I can never say that it never happens, but it is not a big problem for us. We have designed a closed visits room, which we have not had before, to accommodate the change in population. We use it only in extremis, and that is if we have, for example, reason to believe that substances of any kind may be passed into Woodlands. We do not allow tobacco either. However, we would use the closed visits room only if we had a genuine belief that something was going to be passed to a young person. We encourage family visits in open rooms, supervised by staff obviously, because we want to keep that family link for the young person with visits etc.

Mr Humphrey: I suppose that what I am driving at is this: if there were a difficulty with drugs for a young person or young persons, you would be aware of it.

Ms Jack: Yes. The Woodlands regime is set up so that there is a wide range of security cameras and close supervision by staff in the houses. I know that some of you visited, and you saw the layout of the centre and the way in which staff are able to supervise the young people very closely. So, yes, we would become aware of it and be able to deal with it very quickly.

Mr Humphrey: What is the ratio of staff to young people during the day and at night-time?

Ms Jack: In Woodlands, it depends on the population. The policy has been that I am staffed to have an average of 36 young people. For example, today, I have 39 young people, so the ratio of staff to young people will vary slightly. We aim that half a member of staff should be available for each young person.

Mr Humphrey: Half a member of staff?

Ms Jack: Yes, but, in reality, it usually is one member of staff for each young person.

Mr Humphrey: Do you have those figures for Hydebank Wood?

Ms Jack: I do not have them.

Mr McCartney: Thank you very much for your presentation. You said that there will be one new order in the future. What is the timeline for bringing in that order?

Ms Pearson: Subject to the Committee's views and other steps that we need to go through, we would like to put the provisions into the Fines and Enforcement Bill.

Mr McCartney: So, it is going into the Fines and Enforcement Bill.

Ms Pearson: That is the plan.

Ms Jack: At the moment, the Fines and Enforcement Bill is due to come to the Assembly in the autumn.

Mr McCartney: This is a broader question, for you, Paula. Have you noticed a change in the work over the last 18 months? I think that it is a good statement of our intent that the exceptionality clause is being removed; it is a good indication of where this is going. Have you noticed a difference in outcomes in working with young people recently, compared with how it was in the past?

Ms Jack: The agency has always worked with the young people, since 2008 when 17-year-olds became young people, in accordance with all the principles. So, my staff are familiar with working with that age range in any event. I commend my staff for the very hard work that they have done to ensure that we keep the ethos and regime of Woodlands maintained. We run it in the way that we always have done, with a social work and restorative ethos towards working with young people. The staff, the team, have worked very hard, and the Minister has acknowledged that, to ensure that we keep the regime going and we do the right thing. However, we have had to look at our medical and educational needs for the age range of young people that we now have. As I indicated, the demographic has changed in Woodlands, and we are largely seeing that age range either on remand or on sentence

with us in Woodlands. We have adapted to that, and we are working hard to make sure that we have absolutely everything we need in place, so that we can cope with it.

Mr McCartney: Do you notice the difference in a young person between when you receive them and when they go out the other end? Is there a difference in educational attainment?

Ms Jack: Yes. One of the things that we do is to work very hard to ensure that they achieve some success when they are with us in meeting their educational needs. You are all aware that, even at age 16 or 17, the maths and English basic teaching needs are still required by that age group. The benefit that they have from being in Woodlands is that they have access to education daily, so that they can achieve the basic qualifications required even for low-level entry to education or employment. So, we work very hard to do that. We always have our celebration of success in December, to acknowledge the certificates achieved and gained by the young people. It is also recognising that that group of people have vocational interests too, which we can develop whilst they are with us. We have always had — as you saw when you visited — the mechanics qualifications that we achieve there, which we link to maths and education. We have always had the cookery and home economics skills. However, we are looking at other skills that we can develop with the Belfast Metropolitan College to bring in what is needed to ensure that the right education provision is there for those young people so that, when we return them to the community, we return them with skills and hope for education and employment.

Mr McCartney: When the young person leaves Woodlands and goes on supervision, is there a good record of maintaining their —

Ms Jack: Before a young person, of whatever age, is released from Woodlands, there are a number of meetings that involve the family, police, the probation service and us. The pre-release meetings are very detailed to ensure that the right packages are put in place for that individual young person, as they leave Woodlands and return to the community. So, the right supervision is there and the right people are involved in working with that young person.

Mr McCartney: What about employment? Is there a good record of young people getting employment when they get out?

Ms Jack: That is one of the things that we are looking at measuring this year in our business plan. It is always challenging when you leave a custodial environment, whether Woodlands, Hydebank or one of the other adult prisons, if you have previous convictions, in the current job market. It is incredibly challenging to get past the first stage, but we look for placements, work experience and all of the things that we can do to try to facilitate and help with that.

Mr Anderson: Thank you for your presentation. My question is about the custody and supervision split. You talked about the transitional arrangements for moving someone over 18, say aged 18 and a half. Would the last part of their sentence, in going over into the YOC, include the community part of the sentence? Do you see what I am getting at here? Might they not be going to the YOC but be more out in the community doing that final part of their sentence? Am I reading this right?

Ms Lloyd: They could well be. What we have said is that the custodial element of the order will be served in Woodlands up until the age of 18. If the custodial element of the order extends past their eighteenth birthday, an individual panel would be assembled to decide whether that young person was suitable to transfer to Hydebank or should remain in Woodlands, regardless of whatever part. You are right: there could be someone who is 18 who is actually serving the supervision element of an order that they were given when they were a child.

Ms Jack: The important thing is that, while we have transition periods now, without legislation, it has worked in a similar way in that, if time is still to be served in custody, multi-agency meetings are held, including at Hydebank Wood, to look at and plan the move. My staff still follow through with the move.

Mr Anderson: Could those multi-agency meetings decide on the way in which the final completion of the sentence —

Ms Jack: For example, you might have only two weeks left to serve after your eighteen birthday, and there is no merit in moving to Hydebank Wood for two weeks.

Mr Anderson: That is the point that I am getting at. They could be out in the community, based on the decision of the multi-agency meeting.

Ms Jack: If you still have time to serve, the decision, before your eighteenth birthday, would be when and how you are going to move. If you have a small period to serve, it may be appropriate to finish your sentence.

Mr Anderson: There is no grey area here. What I am trying to get at is that the agencies could sort how that is to be completed.

Ms Lloyd: The judge will always set the period the child is to serve in custody. Where the discussion happens is towards the final part, if the child reaches their eighteenth birthday. The decision about where they will serve that final one or two months of custody will be a multi-agency decision, but they will always serve the period assigned by a judge.

Mr Dickson: By and large, all the questions of detail have been asked. Would you describe Woodlands as a success?

Ms Jack: As its chief executive, I would, yes. *[Laughter.]*

Mr Dickson: I want to agree with you in respect of that. Certainly, the story that we have heard here today is a very important one, and it highlights the way in which we treat young people who are children, effectively keeping them out of the Prison Service. For me, that is incredibly important. They are being given their absolute last best chance to gain the education skills and appropriate social skills, to interact with society. If that is what you achieve, I encourage you in respect of finding employment. I think that there are, and I am sure that you work with, a range of people who give you training opportunities. The challenge therein is to turn those training opportunities into real employment, because there is nothing like getting a job to mark someone out as wanting to stay away from the criminal justice system. So, thank you for the work that you have done.

Ms Jack: Thank you. I appreciate that.

The Chairperson: Thank you. Everyone has finished. I thank you all very much for coming to the Committee. We look forward to scrutinising this when it comes forward to us in due course.