Written evidence from the Youth Justice Board for England and Wales

Introduction
As a non-departmental public body (NDPB) with a unique focus on children and young people in the Youth Justice System (YJS), the Youth Justice Board for England and Wales (YJB) welcomes the opportunity to respond to the Justice Committee’s inquiry into restorative justice (RJ). Our wide-ranging statutory functions and the expertise of our Board enable us to lead the YJS, as well as to oversee and monitor its operation. Our work with Youth Offending Teams (YOTs) gives us an operational focus, which allows us to deliver, and inform, national policy, and to maintain a focus on the continuous performance improvement of youth justice services across both community and custody settings. We are therefore well-positioned to address those points raised by this inquiry which are pertinent to the use of RJ in the YJS. However, this submission does not seek to deal with all of the questions posed by the inquiry, nor does it comment on RJ in general terms.

The Youth Justice Board for England and Wales

Vision
Every child and young person lives a safe and crime-free life, and makes a positive contribution to society.

YJB Mission Statement
- Developing and championing a child-centred and distinct youth justice system, in which a designated youth justice service keeps children and young people safe and address the age-specific needs of the child to the benefit of the community.
- Developing a ‘centre of excellence approach’ in youth justice which supports innovation by using and interpreting available evidence to support the delivery of youth justice services in custody and the community settings and more effectively drawing on the contribution of academic institutions and other relevant bodies.
- Using our robust monitoring system to drive continuous performance improvement of youth justice services delivered in custody and community settings and by identifying and promoting best practice.

Our role
The role of the YJB is to oversee the youth justice system in England and Wales. The statutory responsibilities of the YJB include:
- Advising the Secretary of State on the operation of, and standards for, the youth justice system;
- Monitoring the performance of the youth justice system;
- Purchasing secure accommodation places for, and placing, children and young people remanded or sentenced by the courts to custody;
• Identifying and promoting effective practice;
• Commissioning research and publishing information.

While the YJB is responsible for overseeing the performance of youth justice services including multi-agency Youth Offending teams (YOTs) and commissioning secure accommodation providers, the YJB does not directly manage any of the services.

Responding to questions in the call for submissions

Background

The YJB’s work contributes to preventing children and young people becoming offenders or victims of crime. We work to mitigate the impacts of crime on families, communities and victims.

Considering and seeking to address the needs of victims constitutes one of the three cross-cutting themes that underpins all work across the YJB. As part of this, the YJB has undertaken a range of work to promote and embed the quality delivery of safe and competent Restorative Justice (RJ) by Youth Offending Teams (YOTs) and in the youth secure estate. We have mirrored our drive to build capability in the Youth Justice System (YJS), with a focus on building capability within the Board. To achieve this we have appointed a Victims Champion to ensure that our commitment to victims work is fully realised.

To YJB’s focus on victims aims to improve both:

- Outcomes and processes for working with all victims of youth crime, consistent with the Victims’ Code.
- Outcomes for working with young people who have offended, in both custody and community, who are also victims of crime, abuse and neglect.

The YJB believes that safe and competent RJ can be powerful in allowing victims to explain the impact a crime has had on their lives, and supporting them to move on from the experience. RJ can also play a significant role in helping children and young people who offend understand the impact of their actions and help them to begin to turn their lives around. Examples of how RJ has been used with children and young people has been provided at Annex A.

The youth justice sector has pioneered RJ approaches through the Referral Order which has been in use for over 10 years. The Referral Order is a unique sentence directly involving the local community in holding the young person to account for their actions. Referral Orders have been developed in accordance with the RJ principles of responsibility, reparation and reintegration. HM Inspectorate of Probation (HMIP) is in the process of undertaking a thematic review of Referral Orders and we have been supporting HMIP in this work.

Definition

A key challenge for advocates and practitioners of RJ is a lack of clarity and understanding around its definition. The YJB’s definition of RJ is aligned with that of the Ministry of Justice (MoJ), defining RJ as bringing those harmed by
a crime, and those responsible for the harm, into communication, enabling everyone affected by a particular incident to play a part in repairing the harm and finding a positive way forward. The fundamental element is the dialogue between the victim and the offender (although it does not have to be face to face). The YJB believes that RJ can take place at any stage in the youth justice process.

The terms restorative processes and restorative approaches are used to describe what takes place more widely across various sectors (such as education). Along with supporting the use of RJ in the YJS, the YJB also welcomes and supports the increased, appropriate use of RJ in schools and residential children’s homes as a viable means to solving disputes and in turn decreasing school exclusion and police call outs.

Progress made by the Government in implementing the Restorative Justice Action Plan 2014, including any changes that have been made to this plan

The most recent Restorative Justice Action Plan, published in November 2014, builds on the successes of its predecessors. Previous plans saw almost £2.5 million being allocated to the YJB to build capability in YOTs, and further details of how this funding was distributed to ensure the effective, safe and competent delivery of RJ in the YJS have been provided later in this submission.

The YJB has worked closely with colleagues at the MoJ to support them in making progress with both the youth-specific actions and some of the broader criminal justice system (CJS) actions.

Youth-specific progress made includes:

- Roll out of the RJ Maintenance Grant 2015/2016 in April 2015 (approximately £2000 per YOT). The purpose of the grant is to maintain RJ capability in YOTs; and
- Closer monitoring of the use of RJ by YOTs.

Where possible, the YJB will continue to work with colleagues in MoJ to implement the Restorative Justice Action Plan 2014.

How the entitlements to restorative justice in the Victims’ Code are working, and their implications for any such entitlements in any future Victims’ Law

Under the Code of Practice for Victims of Crime (hereafter referred to as the Victims’ Code), those who have been the victim of crime committed by a child or young person, are entitled to be offered the opportunity to participate in RJ by the YOT in the area where the child or young person lives. When making contact with victims, the YOT must explain its role and allow victims to make informed choices about whether they want to be involved. Victims’ involvement must always be voluntary. They must not be asked to do anything that is primarily for the benefit of the offender.

The Victims’ Code states that the criminal justice system as a whole should be flexible and ensure victims receive the level of service they want. As part of this,
victims may choose not to receive services under the Victims’ Code at any point in the process.

The National Standards for Youth Justice Services are set by the Secretary of State (SoS) for Justice on advice from the YJB. The YJB has a responsibility to monitor adherence to these standards on behalf of the SoS. National Standard 7 focuses on work with victims by ensuring that YOTs have processes in place to involve victims of youth crime, as appropriate, in a range of restorative processes that seek to put right the harm they have experienced. To ensure compliance with this standard, YOTs must:

- Deliver services to victims in compliance with the Victims’ Code (for community and custody respectively);
- Deliver restorative interventions in line with the Restorative Justice Council’s National Occupational Standards and Best Practice Guidance for Restorative Practice;
- Ensure that any reparation activity required of a child or young person under a court order or an out of court disposal is set out in writing, specifying the type of activity, dates, times and duration. This must be explained fully to the child or young person and his or her parents/carers;
- Consult with victims and the community (where appropriate) about reparation placements and willingness to engage in restorative processes; and
- Obtain the written consent of any victims willing to engage in direct victim reparation or restorative processes.

To help drive performance in this area, and in line with the YJB’s focus on work with victims, since 2014 YOTs have been required to complete a victim-specific self-audit against National Standard 7 for 3 consecutive years. This is unprecedented and demonstrates the YJB’s unflinching commitment to supporting the youth justice sector to develop both a strategic and operational partnership approach to work with victims. To date YOTs have completed 2 self-audits (2014 and 2015), and some YOTs have demonstrated good progress. Where self-audits identify high performance, we disseminate examples of this performance as good practice, and where YOTs fall short of expectations, improvement plans are produced and additional support provided.

The YJB is a proponent of the Victims’ Law as proposed in the Queen’s Speech last year and welcomes the opportunity presented by this anticipated Bill to improve processes and outcomes for the benefit of victims of crime. An area of particular concern for the YJB in the development of a Victims’ Law is provision of, and access to, services for vulnerable and young victims. We would expect this to be a feature of any Victims’ Law. We also believe in the power of RJ to generate outcomes for children and young people who have committed crime and to support their rehabilitation. Given our unique role in championing and embedding the use of RJ in the YJS, the YJB would welcome the opportunity to work with colleagues in MoJ as they develop proposals for any future Victims’ Law. We would be particularly keen to share the operational expertise described above.
The impact and effectiveness of the National Offender Management Service's restorative justice programme to promote the development of victim-offender conferencing

The National Offender Management Service’s (NOMS) Young People’s Estate (YPE) and the YJB are working to develop a tiered restorative approach to resolve conflict between children and young people in custody. Key features of restorative approaches are the recognition that both parties may come from the same community and will have to coexist in the same community. There is also usage between staff and young people to resolve relationship disputes. The tiered restorative approach will be part of the organisation model, assisting the organisation in recognising at what point they respond to conflict in the youth secure estate and what alternative options can be utilised to peacefully resolve the situation.

This had been planned for launch in May 2016, however it has been delayed due to the Government drive for efficiency savings, which led to an MoJ requirement for the YJB to make in-year budget savings in 2015-2016. This is now a priority programme and, subject to MoJ funding, we hope that this can be rolled out in the next financial year (2016-2017).

Work is also being undertaken to promote RJ conferencing by YOTs “through the gate”. This is when trained YOT workers visit a child or young person in the youth secure estate to facilitate an RJ conference between a victim and offender.

The effectiveness of delivery of restorative justice across the range of service providers and funding arrangements, including provision made by Police and Crime Commissioners, the Prison Service, the National Probation Service, and Community Rehabilitation Companies.

The YJB has undertaken a range of work to champion and embed the quality delivery of safe, competent and effective RJ by YOTs and in the youth secure estate. This work so far has particularly focused on YOTs, as YOTs manage the majority of the cohort of children and young people who offend and deliver services to victims of those offences. This has resulted in RJ being embedded in many YOT services in England and Wales.

From 2011 to 2016, the YJB has distributed funding totalling around £3.5m from the MoJ, which came in part from the Victims Surcharge, to support the development of RJ services and training for YOTs in England and Wales. Initial funding enabled YOTs to train staff as trainers in Restorative Justice Conference Facilitation (RJCF). Having built capability within YOTs, this training was cascaded to Referral Order panel members. Subsequent funding and support was provided to increase opportunities for victims to participate in RJ by ensuring all practitioner grade staff in YOTs had completed RJCF training, and also to assist in further development of practice with training in managing complex cases and training for managers to ensure RP is embedded throughout the YOT. Most recently, in 2015 the Restorative Justice Maintenance Grant was rolled out, providing each YOT funding to maintain capacity of RJCF trained staff. By 31 March 2015, we predict that approximately 9000 staff and volunteers were trained in RJCF, with this figure likely to rise
once we have confirmed reporting on the Restorative Justice Maintenance Grant.

Ensuring RJ in the YJS is administered safely and competently is paramount. In developing grant conditions, YOTs have been encouraged to develop practices in line with the RJC’s standards, and to enrol for the RJC’s Restorative Services Quality Mark (RSQM) which is achieved through an independent assessment of an organisation's restorative service against the Restorative Service Standards. As of December 2015, 10 Youth Offending Services (YOS) had achieved the RSQM, and 30 YOT workers had achieved RJC Accredited Practitioner status.

In addition to the focus on YOTs’ compliance with National Standard 7, outlined above, the YJB has also introduced monitoring of YOT provision of RJ services. From this we can track the use of RJ in the YJS, and identify areas where YOTs may require additional support. This includes both direct and indirect processes.

The YJB is responsible for commissioning and overseeing the secure establishments for under 18s in England and Wales. We commission three types of custodial provision – Young Offender Institutions (YOIs), Secure Training Centres (STCs) and Secure Children’s Homes (SCHs) which meet different needs. The YJB aims to ensure custody is safe and secure, and addresses the causes of offending behaviour, commissioning behaviour management strategies across the young people’s estate that are built on restorative principles.

The MoJ works with the YJB to provide specialist procurement and commercial expertise for YJB commissioned services that are contracted under the name of the SoS. YJB-contracts for SCH places and STCs require the delivery of interventions to address offending behaviour, promote resilience and desistance, and address behaviours that cause young people distress or harm. Offending behaviour interventions are also commissioned in the YOI estate.

Restorative Justice Principles are largely embedded within SCH and STC services, in terms of ethos and the approach to working with children and young people. RJ principles and an RJ approach are delivered through staff training with a smaller number of staff trained as RJ conference facilitators. Two secure establishments have been successful in gaining the RSQM for their restorative practice.

Minimising and Managing Physical Restraint (MMPR) is a recently implemented strategy intended to change the approach of behaviour management within YOIs and STCs. MMPR places an additional emphasis on the importance of staff using existing relationships with children to de-escalate volatile incidents, and to minimise the number of children who experience restraint. The syllabus is consistent with the principles of RJ with elements embedded throughout.

Conclusion

The YJB is committed to ensuring that safe, competent and effective RJ is delivered in the YJS and is available to all victims of youth crime, including young victims of youth crime. The considerable investment that has already been made to support YOTs in developing the skills to deliver RJ demonstrates this commitment, as does the unprecedented focus we have placed on YOTs’ compliance with National Standard 7. Additional work is required to continue to
raise awareness of RJ among victims, to further encourage the use of victim offender conferencing, if appropriate, and to embed restorative approaches in the youth secure estate. The YJB is keen to use the RJ successes of the YJS as a basis upon which to further develop RJ.

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