



Ministry of
JUSTICE

Government response to the Justice Committee's Report: The proposed abolition of the Youth Justice Board

January 2012



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Presented to Parliament
by the Lord Chancellor and Secretary of State for Justice
by Command of Her Majesty

January 2012

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**The Government's response to the Justice Committee's report:
The proposed abolition of the Youth Justice Board**

Introduction

1. The Government welcomes the report of the Justice Committee on the proposed abolition of the Youth Justice Board (YJB). This command paper is the Government's response to the report and incorporates the views of the YJB.
2. The Committee's report was published on the 23rd November 2011 and coincided with the House of Lords consideration of Commons amendments to the Public Bodies Bill¹ which was the legislation which would have given Ministers the power to abolish the YJB by order. During this debate Lord McNally made a statement that the Government had decided not to pursue the abolition of the YJB.² This decision was reiterated in the Ministry of Justice's response to the consultation on reforms proposed in the Public Bodies Bill 'Reforming the public bodies landscape of the Ministry of Justice (MoJ)' which was published on 15 December 2011.³
3. In reaching the decision not to pursue the abolition of the YJB the Government acknowledged the concerns raised by both Houses during Parliamentary debates and the responses made to the consultation. Although the Justice Committee's report on the proposed abolition of the YJB did not seek to make a case either for or against abolition it is clear that many of the concerns raised during Parliamentary debates and in oral evidence were reflected in some of the safeguards that were proposed in the final recommendations. In particular in respect of maintaining a discrete focus on youth justice and the role of the proposed Youth Justice Advisory Board.
4. The majority of the Committee's report concentrated on safeguards to protect the national oversight of youth justice which were contingent on the abolition of the YJB. Much of the report is therefore no longer relevant given the decision not to pursue the abolition of the YJB. However, the Government has stated that it remains of the view that Ministers should have more direct accountability for youth justice⁴ and we are currently working with the YJB on how this can be made a reality. Although Ministers have yet to make any firm decisions on proposals at this stage we have used this response to set out some of the work that is being undertaken in this area, much of which has been ongoing throughout the past year, and would have occurred regardless of abolition.

¹ Now the Public Bodies Act having received Royal Assent on 14 December 2011.

² HoL Hansard 23 November 2011 column 1073/74/75.

³ Reply available on the MoJ website <http://www.justice.gov.uk/consultations/reform-public-bodies.htm>

⁴ HoC Hansard 29 November 2011 column 877.

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5. This response will also address the report's recommendations that remain relevant to the continuing role of the YJB. In particular work to reduce the level of oversight of Youth Offending Teams (YOTs), the dissemination of effective practice and the progress of the youth pathfinder pilots.

Government response to the Committee's conclusions and recommendations⁵

6. The majority of the recommendations made in the Justice Committee's report were contingent on the abolition of the YJB. Now that the Government is no longer pursuing the abolition of the YJB many of the recommendations are not relevant. It has, therefore, been necessary to group together recommendations in order to produce a logical response. We have grouped together recommendations 1, 4, 5, 7 and 8 which seemed to us to be those that most focused on the future of the YJB and the impact of abolition. This has allowed us to use the response to set out how the MoJ and the YJB will work together to respond to some of the key recommendations now that the YJB has retained its Non Departmental Public Body status. This includes a brief overview of the relationship between the MoJ and the YJB and the implications of the decision not to abolish, as well as more practical responses to specific recommendations that relate to how the YJB will fulfil its role in future in respect of reducing central prescription and the dissemination of effective practice.
7. We have also provided a single response to recommendations 2 and 3 which covered performance indicators and the final response covers recommendation 6 relating to the youth pathfinder project.

Youth Justice Board recommendations

Recommendation 1: We welcome the Government's assurance that its proposed Youth Justice Division will have a dedicated focus on the needs of young people in the justice system and that it will sit outside the National Offender Management Service (NOMS). However, we note concerns that, over time, the strategic priorities of NOMS might dominate and overwhelm youth justice. We think that, were this to happen, it would be a retrograde and dangerous development. We therefore recommend that the new Youth Justice Advisory Board be given a specific responsibility to assess and report on the independence of the Youth Justice Division. If it appears that the demands of youth justice are being subsumed within NOMS or other Departmental structures the Advisory Board must draw that to the attention both of the youth justice Minister and of this Committee. (Paragraph 13)

Recommendation 4: If the new MoJ Division is to be successful it will need to provide both leadership and support to YOTs. It will need to know what YOTs are doing locally, and must be approachable and familiar to them, rather than being perceived as a remote entity in Whitehall. It will need to be prepared to pitch in at a regional level, articulating the case for local authorities and others

⁵ Recommendations correspond to the numbers set out in pages 18 and 19 of the Justice Select Committee's report: The proposed abolition of the Youth Justice Board, 23 November 2011.

to pull their weight in funding YOTs, as well as advocating such support nationally. It will also need to continue the work being undertaken by the YJB more recently to do away with excessive bureaucratic oversight and to increase the focus on the effective dissemination of good practice which has a practical application. The YOTs will be well placed to know whether the new Division is succeeding and they should be invited to provide regular feedback on its performance. This need not be cumbersome, but could simply involve YOT managers responding to a brief survey, assessing the performance of the Division in terms of its approachability, responsiveness and effectiveness. The new Advisory Board should push for this feedback to be undertaken and monitor the messages coming from it. (Paragraph 23)

Recommendation 5: We welcome the work which has been done by the YJB and the Magistrates' Association to ensure that sentencers are informed about comparative use of custody rates for young people. This exercise must not be jeopardised by the transfer of the YJB's responsibilities to the Ministry of Justice. We would not want magistrates to be inhibited from making use of information on the effectiveness of sentencing because it came from the executive. The new Advisory Board should, as a priority, listen to sentencers and others and give advice on how this work can be built upon. Such advice will need to ensure that any sensitivities about central government being seen to direct sentencers are addressed and resolved. (Paragraph 26)

Recommendation 7: We welcome the proposed establishment of an Advisory Board and call on the Government to confirm that it will have each of the responsibilities we set out in paragraphs 31 and 32 above. We also call on the Government to show us its draft plan for the composition of the Board, before appointments to it are made, so that we may assess whether it has sufficient independence and expertise. While we think it right that the Minister should be a Member of the Advisory Board, and in close touch with its thinking, we believe that there would be merit in the Board having an independent, voluntary chairman who can act as a voice for it. The holder of that post could usefully be subject to a pre-appointment hearing by this Committee. It is important that, in the Minister's own colourful phrase, the Advisory Board should neither be, nor be seen as, a "bunch of patsies". (Paragraph 36)

Recommendation 8: There are likely to be further debates about whether the Youth Justice Board should remain as an arm's length body or have its functions transferred into the Ministry of Justice. If it survives, it will need to continue the trend towards a less prescriptive approach to local Youth Offending Teams. If the planned transfer goes ahead it will be essential that the new Division:

- Is not part of NOMS;
- Benefits from the establishment of a genuinely and visibly independent Advisory Board;
- Improves the dissemination of best practice; and
- Exercises 'light touch' oversight of Youth Offending Teams.

(Paragraph 37)

Government Response

Future role of the YJB

8. The Government welcomes the detailed work undertaken by the Justice Committee which underpinned the recommendations that were directly relevant to the abolition of the YJB – in particular recommendations 1, 4, 5, 7 and 8. This included various recommendations and safeguards to ensure the continued focus on youth justice that were contingent on abolition and, therefore, no longer require a substantive Government response in the context of the decision not to abolish the YJB.
9. Ministers are committed to maintaining a close working relationship with the YJB. Throughout the period when the YJB was facing abolition the MoJ and YJB maintained effective working relationships which helped to ensure that the delivery of youth justice was not affected by any uncertainties at the national level. Ministers have reaffirmed their commitment to the relationship in meetings with the Chair and Chief Executive of the YJB following the decision not to pursue its abolition.
10. The Government still believes that there should be more direct Ministerial accountability for youth justice and the MoJ is working with the YJB to consider how we can achieve this within the current legislative framework. This work is at an early stage and while no concrete decisions have been made, Ministers have already asked to be more closely involved in the YJB's business planning to ensure that the work of the YJB is closely aligned with broader MoJ priorities. Ministers have also asked the YJB and Board members to prioritise work with delivery partners including the Welsh Government, Magistrates, Local Authorities and the secure estate to secure better outcomes for young people who have offended or who are at risk of offending. This is an aspect of the YJB's work that is particularly admired and one which was the subject of frequent comment during Parliamentary debates.
11. The MoJ and the YJB will continue to work together on rationalising estates and sharing corporate service functions which will help the YJB and the MoJ achieve its savings targets.
12. The MoJ is also strengthening the framework documents that set out the relationships between the Department and its Non Departmental Public Bodies (NDPBs). Our work on this with the YJB provides an opportunity to address some of the recommendations made by the Justice Committee, and to deliver the Government's commitment to increase direct Ministerial Accountability. We expect this document to be launched later this year.
13. As is the case for all NDPBs, the YJB is subject to Cabinet Office's policy on public bodies which stipulates that they should be reviewed at least once every three years.

14. These reviews have two principal aims:

- (a) to provide a robust challenge of the continuing need for individual NDPBs – both their functions and their form; and
- (b) where it is agreed that a particular body should remain as an NDPB, to review the control and governance arrangements in place to ensure that the public body is complying with recognised principles of good corporate governance.

15. The date for the Triennial Review of the YJB has not yet been agreed, but Ministers have decided that it will not take place this calendar year. Once agreed, the MoJ will lay a Written Ministerial Statement to announce the date of the review, and in line with Cabinet Office guidance, will notify the Select Committee of the commencement of the Triennial Review and allow it the opportunity to input and comment.

YJB's relationship and oversight of Youth Offending Teams

16. We welcome the report's focus on reducing the central prescription on Youth Offending Teams (YOTs). We recognise the need to reduce the burden on YOTs. Over the last 18 months we have been undertaking a number of pieces of work to achieve this aim. This work has been led by the YJB in conjunction with delivery partners and within the context of the Government's policy to free up professionals on the front line and to reduce the central burden on local areas.

17. The YJB has reviewed its approach to performance improvement and oversight in order to identify those elements that need to change and those elements that continue to add value. YJB has undertaken this review in partnership with stakeholders from across the youth justice sector. As a result of this work, it has developed a new improvement and oversight framework that is underpinned by the principles of local determination, local delivery and accountability, sector led, light touch with a significant reduction in the burden on YOTs.

18. Central to the new approach is sector-led improvement processes and resources. YOTs will be supported to deliver the most effective programmes in the most efficient ways. There will be increased focus on the identification and dissemination of effective practice via the new effective practice framework. These resources and processes will be available to all YOT partnerships to draw upon at their discretion and will include:

- effective practice fora and events;
- effective practice resources and materials including a YOT Partnership self assessment tool; and
- peer review and support enabling YOT Partnerships to work together to objectively reflect on and review local youth justice provision and practice.

19. While the sector will take the lead in improving itself, YJB will maintain a reduced number of locally based staff who will have a role in facilitating this, specifically working with the sector to identifying gaps, delivering and disseminating effective practice and facilitating a peer review and support programme. Each YOT Partnership area will have a linked YJB person who supports the YOT partnership and can be approached for help and advice. While these staff will have a monitoring role, their role will heavily focus on supporting the effective practice framework and YOT Partnerships and assisting the peer review and support work locally
20. The YJB retains, as one of its core functions, the responsibility to oversee the performance of the youth justice system. The YJB has significantly reduced the reporting burdens on YOTs and have moved towards a risk based approach to monitoring that focuses on the three youth justice outcomes rather than processes, further minimising the reporting burden. The MoJ also committed to move to a risk-based YOT inspection system which is better aligned with other key inspectorates and which enables resources to be targeted at those YOTs, and issues, where there are the greatest performance concerns. HMI Probation has been leading this work in consultation with YOTs and the new inspection programme is scheduled to begin in April this year.
21. The YJB will maintain a facility to provide performance improvement support where the need has been identified. This will focus on supporting improvement through the application of the principles of effective practice principles and resources. While the YJB will maintain this resource it will be on a reduced scale to previous years.
22. Whilst the new approach to YOT oversight, both in terms of the work of the YJB and the future risk based inspection programme, will be predicated on light touch monitoring and reduced central prescription, a clear process is in place to respond to identified risks in performance and to escalate to ministers in extreme cases where other channels have been exhausted.

Effective Practice

23. Ministers are keen to see the YJB focus on the identification and dissemination of effective practice to assist the delivery of youth justice by front line practitioners. In this context the YJB is pressing ahead with its plans to implement an improved approach to the identification and dissemination of effective practice in 2012/13 which is being developed in collaboration with the youth justice sector. As part of this approach the YJB has recently successfully tested processes for identifying the effective practice priorities of the youth justice sector and ensuring that they are considered as part of the YJB's corporate planning process. We are also working to improve the way in which visitors to the Justice website locate and access youth justice effective practice materials, practice guidance and published research. This will include ensuring that all relevant materials are properly and independently classified according to their relative effectiveness using a practitioner friendly system for translating research standards into practical advice. These changes are being co-ordinated with the wider developments in relation to MoJ and cross government web site redesign.
24. More generally the YJB plays a prominent role in the youth justice research programme established by MoJ in 2010 to more effectively co-ordinate the use of youth justice research resources. Good progress is being made on current projects which aim to provide findings on the nature of interventions and their reoffending levels, which are administered to young offenders in the youth secure estate (the YJB led Young People, Interventions and the Secure Estate project) and in the community (the MoJ led Interventions study using the Juvenile Cohort data).

Justice Committee recommendations: Performance indicators

Recommendation 2: The Youth Justice Board has been an important part of a system which in recent years has produced positive trends in performance against the three indicators used to assess the effectiveness of youth justice: the number of first time entrants; proven reoffending; and custody numbers. (Paragraph 16)

Recommendation 3: Despite successful performance against those indicators, reoffending rates for young people sentenced to custody or higher-end community sentences remain stubbornly high, as the Government has highlighted. The Ministry of Justice should consider whether the indicators it uses are sufficient, and whether they should be augmented by a further indicator specifically focused on reducing reoffending rates amongst those young people who commit the most serious offences. (Paragraph 17)

Government response

25. Ministers have asked the YJB to remain an outward facing organisation that works with youth justice delivery partners to maintain the positive trends in performance against the three indicators used to assess the effectiveness of youth justice.
26. The Government believes that the oversight of YOTs should be slimmed down to be centred on these three main outcomes. Given the commitment to a lighter touch performance monitoring capability and a smaller number of indicators, we feel that these three indicators are the right ones:
 - **First time entrants** to the system allows us to monitor the effectiveness of early intervention;
 - **Re-offending rates** are clearly key to monitoring the effectiveness of the system;
 - We are committed to reducing unnecessary use of custody for young people, so **custody figures** are a key indicator.
27. The YJB and MoJ already record information regarding re-offending rates for the most serious offenders. This information is taken from the Police National Computer (PNC) as part of MoJ's re-offending statistics. Data for the 2009 re-offending cohort showed that of the 121,107 young people in the cohort 0.62 per cent (755 young people) went on to commit serious violence or sexual re-offences. The relatively small number of serious offences will fluctuate between reporting periods which makes it hard to use this as a performance measure at the local level. The YJB and MoJ already use offending rates as contextual information which is used to inform the national overview of YOT performance. This information will help us identify YOTs where re-offending rates among the most serious offenders are a cause for concern and where YJB intervention may be necessary as part of more formal performance management procedures.

28. We believe that using these statistics as contextual information to target performance improvement is sufficient and that this does not need to become a formal performance indicator. We therefore have no current plans to augment the current set of indicators. However, we will continue to monitor their effectiveness and make changes in the future if necessary.

Justice Committee recommendation: Pathfinder pilots

Recommendation 6: We welcome the pathfinder pilots initiated by the YJB and the Department, designed to provide up-front funding from the custody budget to put in place initiatives designed to decrease the demand for custodial places. We will be monitoring the progress of these pilots and hope that they are successful, and that this approach can be adopted more widely. We also welcome the Minister's enthusiasm for a transfer of custody budgets to locally accountable bodies, with the impetus this should provide to reduce the inappropriate use of custody. (Paragraph 30)

Government response

29. We welcome the Committee's enthusiasm for our pathfinder work and we will keep the Committee informed of progress.
30. There are four pathfinder areas in Birmingham, West Yorkshire, West London and North East London. The pilots will last two years and commenced on 1 October 2011. A proportion of the YJB's custody budget (£3.7 million) will be invested upfront in pilot areas in return for those areas committing to target reductions in their use of custody. Areas have flexibility on what interventions they deliver, but will have to return funding if targets are missed. Pilot consortia will therefore share the financial risks of increases in custody.
31. We will consider the evaluation of the pathfinder pilots – a one year interim report is scheduled for 2013 with the final process report in mid 2014 – before committing to adopting the approach more widely. We are in any case proceeding with the delegation of remand budgets to local authorities subject to the successful passage of the Legal Aid Sentencing and Punishment of Offenders Bill.
32. The MoJ notes the Justice Committee's intention to conduct a large scale inquiry into youth justice as one of its next pieces of work in this Parliament. We look forward to working closely with the committee on any upcoming inquiry.



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