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Consultation Document

Policy Implementation Guidance

Addressing Mental Health Problems of Children and
Young People in the Youth Justice System



Youth Justice Board
Bwrdd Cyfiawnder Ieuencig

Date of issue: **19 May 2014**

Action required: Responses by **6 July 2014**

Overview

The Welsh Government is wishing to consult on addressing Mental Health problems of children and young people in the Youth Justice System. The context of this consultation is based on the Welsh Governments commitment, set out within its 'Together for Mental Health' strategy, to ensure services better meet the needs of children and young people who are at risk of entering or are already in the Youth Justice System.

Your views are sought on the attached Policy Implementation Guidance and in particular the importance placed on delivering the Welsh Governments requirements set out within the Mental Health (Wales) Measure 2010.

How to respond

You can email us your response at:

mentalhealthandvulnerablegroups@wales.gsi.gov.uk.

If you wish to send a hard copy please address it to:

Julia Letton
Mental Health and Vulnerable Groups Division
Department for Health and Social Services
Welsh Government
Cathays Park
Cardiff
CF10 3NQ.

Further information and related documents

Large print, Braille and alternate language versions of this document are available on request.

Contact details

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Data protection

How the views and information you give us will be used

Any response you send us will be seen in full by Welsh Government staff dealing with the issues which this consultation is about. It may also be seen by other Welsh Government staff to help them plan future consultations.

The Welsh Government intends to publish a summary of the responses to this document. We may also publish responses in full. Normally, the name and address (or part of the address) of the person or organisation who sent the response are published with the response. This helps to show that the consultation was carried out properly. If you do not want your name or address published, please tell us this in writing when you send your response. We will then blank them out.

Names or addresses we blank out might still get published later, though we do not think this would happen very often. The Freedom of Information Act 2000 and the Environmental Information Regulations 2004 allow the public to ask to see information held by many public bodies, including the Welsh Government. This includes information which has not been published. However, the law also allows us to withhold information in some circumstances. If anyone asks to see information we have withheld, we will have to decide whether to release it or not. If someone has asked for their name and address not to be published, that is an important fact we would take into account. However, there might sometimes be important reasons why we would have to reveal someone's name and address, even though they have asked for them not to be published. We would get in touch with the person and ask their views before we finally decided to reveal the information.

Ministerial Foreword:

This is a draft document for consultation. The Minister's foreword will be added when the document is agreed and published.

Foreword by the Youth Justice Board:

The Youth Justice Board is pleased to have the opportunity once again to work in partnership with the Welsh Government. This is the first time we have formalised our joint commitment to addressing the mental health needs of young people in contact with the youth justice system. It is a matter that the YJB recognises as essential for the effective rehabilitation of young people who offend. Our own commitment to this is featured within our Corporate and Business Plan.

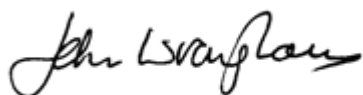
In recent years we have witnessed tremendous success in Wales. There are significantly fewer young people being brought into the youth justice system and a marked reduction of Welsh children detained in custody. While these successes are to be celebrated we now face the challenge of addressing the offending behaviour of a smaller group of young people who have often experienced adverse child development and have complex interlocking needs.

These young people have already experienced so much in their short lives and their involvement in the youth justice system serves to perpetuate their vulnerability. Therefore it is in the best interests of young people, their families and the communities in which they live to provide them with the help and support they need to lead crime free lives.

A young person's involvement in the youth justice system should not in any way hinder their access to mental health services.

I believe this policy implementation guidance provides a foundation on which youth justice and health services can create a stronger alliance. Therefore, I urge those responsible for organising and delivering services to this group of young people to accept this guidance and use it in the way it is intended.

The YJB is committed to working with the Welsh Government on realising its contents and will use this as a basis or our advice to youth offending teams and their management boards.



John Wrangham
Youth Justice Board member for Wales

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Part One: Context

INTRODUCTION AND BACKGROUND

1. This policy implementation guidance concerns children and young people aged 10 to 18 years who may have Mental Health problems, who offend or who are at risk of offending wherever they are located. It seeks to inform planners and other key stakeholders responsible for children and young people, principally within Local Health Boards, Welsh Police forces and Local Authorities. It aims to support improvements in Mental Health provision for this vulnerable and often marginalised group of children and young people.
2. The guidance should further help inform how professionals and practitioners concerned with children's services – and with youth justice and health services in particular – can make best use of opportunities such as those presented by the Welsh Government's Mental Health (Wales) Measure 2010 (the Measure) and the increased focus on delivery through local partnership arrangements.¹ Along with the requirement to deliver its statutory responsibilities set out within the Crime and Disorder Act 1998, this guidance is also designed to ensure that the Welsh Government discharges its duties and obligations under the United Nations Convention on the Rights of the Child (UNCRC).²
3. The Welsh Government, the Youth Justice Board and its lead partners across the youth justice system, local authorities, health and police services have an unambiguous commitment to preventing children and young people from committing crime and reducing reoffending. By employing means designed to keep a small but often vulnerable group of children and young people out of the criminal justice system, it is more likely to stop problems from escalating and critically, help prevent the stigma and debilitating effect of a criminal record later in life. The Green paper published by the Welsh Government in 2012 sets out its proposals to help prevent those children and young people who present with such a risk of having contact with criminal justice: proposals that will inform a White Paper in 2014.³ The recent Silk Report, published in March 2014, makes recommendations in relation to potential changes to youth justice arrangements. This guidance will look to compliment and enhance any formal changes in how health and justice provision will be delivered in the future.
4. It is recognised, however, that for some children and young people, their contact with the criminal justice system is due to behaviour linked with or a feature of a presenting concern associated with a Mental Health condition, a learning disability or both. To address this, the *Together for Mental Health* strategy and associated delivery plan, the

¹ <http://www.legislation.gov.uk/mwa/2010/7/contents/enacted>

² <http://www.unicef.org/crc/>

³ <http://wales.gov.uk/docs/dsjlg/consultation/120918youthjusticeenv1.pdf>

following outcome was set: *'To ensure services better meet the needs of children and young people who are at risk of entering or already in the Youth Justice System.'*⁴

5. To achieve this goal, the Welsh Government has set out this policy implementation guidance addressing the consequences associated with Mental Health issues of young people in contact with the youth justice system. In addition to the legal and strategic imperatives set out within the Measure and the Together for Mental Health Strategy, this guidance has been informed by the outcome of Green paper consultation; The Youth Justice Board (YJB)-Cymru report on *'Restorative Justice and Prevention Report: Diversion from the Youth Justice System in Wales'*;⁵ and critically, a series of practitioner events (seven), held across Wales, designed to gather important data and information on current service provision from stakeholders.
6. In respect of those practitioner events, the picture of services that emerged was somewhat fragmented and confused. Pockets of best practice were identified but it was apparent that with no universal minimum standards which governed, for example, timeliness of interventions, or consistency in relation to accessing specialist services, practice was likely to reflect a mixed picture. The Welsh Governments' stated objective for services that have specialist NHS CAHMS provision available to Youth Offending Teams (YOTs) across all areas, for example, has not been fully achieved in some areas.
7. This guidance is directed at Local Health Boards (LHB's) service planners through the work of Mental Health and Criminal Justice Partnership Boards and YOT Management Boards. They are crucial in overseeing the delivery of this policy guidance. The LHB lead for the planning of Mental Health services for children and young people, in conjunction with key partners who have a stake in this user group – CAMHS, GP's, children's social services, youth offending teams, schools and related specialist services including education and welfare officers, educational psychologists and health visitors – is critical.
8. The complexity of this service user group should not be underestimated: e.g. unless the child is formally 'looked after' or is statutorily supervised by the youth offending service, it is often unclear which agency is responsible for the case management pre or post conviction. This question of responsibility and who leads, when asked of practitioners, failed to secure an answer which generated confidence or clarity. This documents aim to set out some minimum standards in an attempt to gain some consistency across Wales as well as improvement in service provision and improved governance.
9. By setting out the key principles of how and where intervention is likely to have the greatest impact; by making recommendations in how best

⁴ <http://wales.gov.uk/topics/health/publications/health/strategies/strategy/?lang=en>

⁵ An Internal report, not published. Can be made available on request

to improve service delivery responses; and by making recommendations in how this activity should be governed, it is anticipated that a key outcome – to help further reduce the present number of children and young people entering the justice system – will be achieved.

POLICY AND LEGAL CONTEXT IN WALES

10. In an adult context, Welsh Ministers have issued policy implementation guidance which sets out the expectations of the Criminal Justice Liaison Service (CJLS): a developing provision operating from within court precincts and police custody suites, managed by local health boards. This service provides the foundation upon which adults with a Mental Health or related difficulty who present to the criminal justice system receive an appropriate response. Governance arrangements and management activity are in place to deliver expectations set out within related legislation and the policy framework.⁶
11. In relation to children and young people, the Crime and Disorder Act 1998 placed duties on Local Authority Chief Executives to establish a YOT (encompassing five statutory partners of whom one is Health). However the policy framework is less clear: no formal equivalent CJLS for example is in place, although many practitioners work together in the field. This gives rise to the need for clarity and consequently this guidance. A coherent, simplified approach is required to deliver the key components of generic legislation which underpins the stated policy of diverting children and young people away from the justice system. The related duties on local authorities, social service departments, schools and its specialist services, youth offending services, courts and so on are both diverse and complex.
12. A summary of the legislation, clinical and legal platforms that inform this work are set out at **Annex 1**. What flows from these components is a need for areas to re-appraise how it responds to children and young people who present to the justice system in a manner that is effective.

EVIDENCED BASED PRACTICE

13. It is clear that diverting children and young people away from the criminal justice system has a positive effect on future offending⁷ as well as other outcomes. In Wales, YJB-Cymru assessed the distribution of programmes designed to help prevent offending, divert individuals away from the more formal elements of the justice system and when appropriate, restorative justice approaches are carried out⁸. Overall,

⁶ <http://wales.gov.uk/topics/health/publications/health/guidance/criminal/?lang=en>

⁷ www.publications.parliament.uk/pa/cm201011/cmselect/.../721/721.pdf

⁸ Yjb cymru –Restorative Justice and Prevention Report: Diversion from the YJ system in Wales 2012

the picture across Wales is a good one. There are educational, geographically focussed and multi-agency targeted prevention interventions across all areas, with a summary set out at **Annex 2**.

14. It emerged as part of the practitioner led consultation that for children and young people with Mental Health and related conditions, the specific presentation of their behaviours posed additional challenges. Consequently, they were identified as falling between potential service gaps: a gap between the array of diversionary activity being offered and the need for high quality assessment and potential treatment. This guidance seeks to offer advice on closing this gap in whatever form.

DEFINITIONS

15. Children and young people who present to services with mental health problems and/ or behavioural problems in can often attract unwelcomed or unwarranted labelling. In this regard, some broad and specific definitions relating to Mental Health conditions and behaviour, allied with some commonly used terms which relate to learning disability are set out within a reference schedule at **Annex 3**.

PART TWO: GUIDANCE

AIM AND PRINCIPLES

16. The overarching aim of this guidance is to achieve the key outcome set out within the *Together for Mental Health* strategy, namely:

To ensure services better meet the needs of children and young people who are at risk of entering or already in the Youth Justice System.

It is important that services relate to core activities provided by lead agencies and partners who work with and help inform the lives of children and young people.

17. These agencies include children's social services, education and schools- (including location based nurses and counsellors, educational welfare officers and psychologists), police and youth offending teams, anti-social behaviour co-ordinators, youth and community services, specialist services within NHS -Wales, including Children and Adolescent Mental Health services (CAHMS), paediatrics and allied provision.

UNDERPINNING PRINCIPLES

18. The promotion of positive mental health and improved mental wellbeing for the population as a whole, and in particular children and young people, are key components in realising the ambitions of the Welsh Government.⁹ In particular:

- addressing health and other inequalities;
- increasing levels of educational attainment and access to employment;
- tackling poverty, substance misuse, and homelessness;
- reducing the number of young people entering the Youth Justice System

Governance structures responsible for overseeing the delivery of services to children and young people should apply the following principles:

- Children and young people should be viewed as such and in accordance with primary legislation and the UNCRC on the rights of children their welfare is paramount. The Youth Justice strategy in Wales is strongly underpinned by the '*children first, offenders second*' principle
- Early intervention to 'prevent and divert' children away from the justice system should inform the daily practice of agencies

⁹ Ibid 2. Page 11

tasked with the care, education and corporate supervision of children and young people

- When the presenting behaviour and its impact on a child or a young person needs intervention, including families or primary carers is essential
- Engagement with specialist services, specifically CAHMS, should be guided by guidance set out by the National Expert Reference Group - CAHMS, (in Wales)¹⁰, documented as a schedule at **Annex 4**
- Public protection and safeguarding legislation and requirements apply, specifically in regard to the prevention of risks escalating and the protection of potential or future victims of whatever kind

PURPOSE AND FUNCTION: Key Stages for Improvement

19. The overwhelming message from the practitioner led consultation events was that the improvement necessary in service provision for this cohort of children and young people was likely to be achieved by building on and developing existing services and to use the current framework of children's services. There was no appetite to create new structures and elaborate referral pathways to deliver the required outcomes but recognition that improvement of existing arrangements was necessary: a point this guidance accepts.

20. However, to achieve the desired impact, each local authority and health board is encouraged to review arrangements as to how children and young people who offend or at risk of offending are identified; how they are referred into services; which agency leads and which is the identified owner of any specific activity. The local Youth Offending Team's management board has a key role to play in this regard. To assist in this process it is suggested that liaison and diversionary activity within the youth justice system in Wales is required to take place at three distinct stages:

- Pre-arrest
- At the point of arrest/charge
- The formal court/pre-post sentence process

21. It is further suggested that the framework in which this activity is carried out is based on the professional advice set down for service planners by the CAHMS National Expert Reference Group, specifically in relation to Forensic Services at the Primary; Secondary and Tertiary support services at Tier 1-4. In this context, the guidance is clear-it states: "*Forensic mental health has been defined as an area of specialisation that involves the assessment and treatment of those who are both mentally disordered and whose behaviour has led or could lead to offending. There is an association between substance misuse,*

¹⁰ <http://wales.gov.uk/topics/health/publications/health/guidance/camhs/?lang=en>

mental disorder and offending. Nowhere is this more important than in the field of adolescent forensic psychiatry".¹¹ The graphic set out at **Annex 5** provides a perspective on the relationship with the clinical interface between Tiers 1-4 and the pre-arrest, charge/conviction and sentence phases set out below.

Pre-Arrest Stage:

22. As part of the consultation process, it was generally accepted that the majority of children and young people who have contact with the justice system will fall into pre-arrest phase. The focus must be on diversion away from the formality of the justice system, using approaches designed to help and address behaviour rather than criminalise or label behaviour negatively or in medical terms unless clearly indicated.
23. In simple terms, this group would reflect a wide range of 'low-level' concerning behaviour which, if not addressed, is likely to escalate. This behaviour might be characterised by, (but not limited to) absence and exclusion from school, spending time away from established structures around home, being out at night and engaging in anti-social behaviour likely to lead to criminal behaviour.
24. It may also extend to confrontational behaviour with adults in a supervisory or authoritarian role or with peers. Parental conflict is likely to become more apparent allied with some elements of behaviour growing more risky. Often the behaviour is presented and highlighted by adults using language which suggests the young person is becoming increasingly problematic, oppositional, withdrawn and socially isolated from peers, distressed and needs help. There is potential for the behaviour to continue to deteriorate and encounters with the police are likely to increase.
25. The presentation or a rising of the concern of this type of behaviour is likely to emanate from the school or home. The question for local health boards and partners give rise to the following:
 - Who is best placed to respond to this 'typical' scenario?
 - To what extent are local arrangements responsive to the type of scenario presented and, therefore, the needs of the young person?
 - Are referral pathways into Primary level services established, if required?
26. Advice arising from the consultation events was that exemplar service provision emphasised the role of *Anti-Social Behaviour Co-ordinators*, who operated across all areas. They were viewed as being central to this first tier of intervention. They are responsible for managing the response that can include, should initial attempts not achieve

¹¹ Ibid 9: Forensic Services –page 24-26

desistance, the convening of a multi-agency meeting involving relevant parties. Information can then be shared; a planned response formulated and as such, 'designs in' an approach that is proportionate.

27. In addition to this approach, Youth Inclusion and Support Panels (YISPs) – hosted by Youth Offending Services - exist in a number of areas in Wales. YISPs aim to prevent anti-social behaviour and offending by children and young people who are considered to be at high risk. They operate as multi-agency planning groups which offer early intervention based on assessed risk and need. Participation in this forum also emerged as being a determining factor in how children and young people are responded to and were viewed as a key vehicle to determine the most effective approach.
28. The role of school-based nurses was currently viewed as being marginal to the pre-arrest phase yet they were felt to be a critical party, given the nature, scope and likely knowledge of a young person exhibiting concerning behaviour. The *Framework for School Nursing Service in Wales*, published in 2009 provides for children and young people to have access to this provision irrespective of school attendance¹². The role of a lead school nurse, and their links with pastoral care teachers, education welfare officers and health visitors should extend to working in partnership with other agencies to identify, monitor and support vulnerable young people, working collaboratively with CAHMS and other mental health services.
29. As a minimum school based nurses should be routinely alerted to those cases at the pre-arrest stage and be encouraged and required to add to the information gathering and sharing process and consulted on the options for intervention. Enhancing their contact with YOTs with specific regard to emotional and mental health screening with help extend their important contribution. The role of the Education Welfare Service was also deemed to be important given their duties in relation to children's attendance and social functioning at school.
30. School-based counselling services were also identified as having an important role, given that early and easy access to counselling can prevent mental health problems becoming more serious. Young people who fall within the pre-arrest category should at least be flagged and directed to this service provision. It is understood that counselling services are independent and there are constraints on sharing 'client-identifiable information' as published within the statutory guidance.¹³ However, where counselling services have been or could be involved in providing services to a young person in need, it is clearly important to ensure that this involvement is known and factored into the planning

¹² <http://wales.gov.uk/topics/health/publications/health/reports/nursing/?lang=en>

¹³ <http://wales.gov.uk/topics/educationandskills/schoolhome/wellbeing/schoolcounselling/?lang=en>

of other responses. These arrangements should be extended for young people excluded from or disaffected with school.

31. *General Practitioners*: GPs were presented as being a 'catch-all' receptacle of referrals, particularly at the pre-arrest stage. CAHMS services advised that ordinarily, GPs would refer into their services having completed an initial screening and assessment of need, particularly assessing physical health concerns. GP's will tend to know the whole family and have known the young person for some time and can have a key role in that early assessment and referral on if necessary. CAMHS and Local Primary Care Support services for children will aim to offer advice and support the GP team and keep the child at the least stigmatising level of care as is practical.
32. Youth Offending Services and CAHMS practitioners are most likely to become involved in assessing a young person's emotional and mental health or at least be consulted at this stage. Where gaps arise in terms of referral continuity is often due to the fact that CAHMS provision is not yet universally represented within Youth Offending Services.
33. Unsurprisingly, this differential position creates disparities across Wales, most notably in ensuring that a comprehensive health assessment is conducted, that needs and risks are fully assessed and that a young person is appropriately referred to providers of mainstream health and/or children's services as required. This specialist role and function is clearly pivotal and highly valued: the benefits of having a mental health practitioner within YOS cannot be overstated.¹⁴

Revision of Key Delivery Elements Pre-Arrest:

- Role of anti-social behaviour co-ordinators are an important intervention resource at this stage
- CAMHS and related specialist staff such as LPCMHS have a role in offering general advice and support to all professionals who are in contact with this group
- The focus should be on diversion away from the justice system and liaison with resources who can help the young person in a manner that is proportionate to need
- There should be a single, stream lined multi-agency panel structure into which referrals are made, assessed and acted upon
- The Youth Inclusion Support Panels were universally supported as the most effective structure. These should be configured to reflect urban and rural considerations

¹⁴ Exemplar services were identified with Powys and Gwent Annex x refers

- School base nurses and counsellors, education and welfare officers specifically those located within secondary schools, should be included as part of the decision making process
- The policy of having identified specialist CAHMS nurses with dedicated sessions available to YOS must be adhered to
- The role of initiatives driven by the *Families First and Team Around the Family* should feature within relevant intervention plans

The Point of Arrest/Charge Phase:

34. When a young person is formally arrested and is likely to be charged, the degree of escalation and context of the behaviour is such that the Police are often faced with few alternatives. It is highly likely, save for a small number of serious yet previously 'unknown' young people, they are already known and previous attempts at prevention and diversion have not achieved the desired effect.
35. The reason for the offending is likely to be a symptom of an array of presenting issues, usually complex in their presentation. Current evidence suggests that when key individual criminogenic factors which influence offending goes awry – (moral and pro-social values, norms, attitudes, beliefs, allied with a loss of self-control, impulsivity, poor self-regulation, risk-taking, etc.) – the consequences are not likely to be positive.¹⁵ The manifestation of these elements will often result in offending behaviour which can no longer be tolerated.
36. With regards to loss of self-control and specifically behaviour that has apparent risks and poor judgement, intervention or support by Mental Health Professionals, or Youth Offending Workers may be required. For many young people, the offending behaviour is likely to be a symptom of wider, deeper rooted problems which may include:
- An increase in impulsivity and a diminished sense of control, normally imposed by parents, significant adults and positive peer influences
 - Poor social functioning and attainment at school
 - Unwelcomed negative peer or adult influence
 - A material change to the home or living circumstances including parental separation, bereavement and loss (e.g. sibling, grandparent)
 - Targeted exploitation
 - The masking of self-harming behaviour
 - Experimentation of illicit drugs and/or alcohol leading to dependency and loss of control
 - A change in personal pathology giving rise to sudden changes in behaviour patterns

¹⁵ www.yjb.gov.uk/publications/resources/.../final%20obp%20source.pdf

37. Should there be significant concerns that these behaviours, predicative of mental health problems, give rise to offending, the starting point of intervention should be the completion of a comprehensive mental health assessment. This should be completed by a professional with specific knowledge and skills of working with children and young people who are at risk of offending. For the most challenging and complex cases, a CAHMS (or Forensic CAMHS) specialist professional such as a nurse in the Youth Offending Service (or having access to a similar resource) is likely to be the most efficient means of facilitating this approach. This assessment will form the starting point to determine how best to intervene with the young person. Critically, the assessment will highlight those aspects of the behaviour which relate to a mental health problem.
38. A judgement will be needed as to whether a referral to a specialist service provision is required, including children's social services, especially those resources which focus on the family. The essential element of this phase of a young persons offending history is for partners to have mechanisms in place that are responsive to an assessment; to react with appropriate speed; and to determine an intervention plan owned by a lead agency, and to identify those that require involvement of specialist forensic CAHMS teams in the community. This approach is more likely to prevent further escalation and the consequences of sustained offending. It will also form the platform on which a comprehensive approach – practitioner led intervention and where necessary, treatment allied with diversion away from an actual charge/court base sanction, possible reparation and so on – can be built.
39. Of significant importance in this type of case profile is the understanding of referral pathways and critically, thresholds. Practitioners advised that cases of this type of seriousness – on the cusp of serious escalation – were often the most complex in respect getting engagement with secondary level, tier two services. Several examples were cited describing how specialist services were setting the referral criteria in a manner which was unclear and confused. The point they were stressing is that a young person is more likely to be diverted away from and kept away from the formality of the court once a coherent intervention plan was agreed.

Revision of Key Elements of the Point of Arrest/Charge Phase

- When a young person has been arrested, is likely to be charged, and who presents with a mental health related concern the completion of a mental health screening by a CAHMS specialist is important to inform an effective intervention plan
- Local services, referral pathways and indicative guidance on thresholds should be routinely updated and made available across agencies

- Intervention should be predicated on de-escalating risk and where possible, work to avoid court based sanctions. This should extend to balancing person centred interventions with victim reparation and related diversionary activity
- Plans should clearly include school's based services including nurses, education welfare officers and counsellors, if the child is still in education
- One lead agency should be responsible for the case management

The Formal Court/Pre-Sentence Process

40. It is fully recognised that despite attempts at keeping children and young people out of the justice system and specifically the formality of court proceedings, some will inevitably be required to face the consequences of their behaviour. In Wales, the picture is encouraging with fewer young people receiving any form of criminal sanction or conviction having consistently dropped with a 56% reduction between 2009/2010 and 2012/2013. This equates to 2000 fewer young people. However, of those who remain, many are presenting with more challenging demands which include Mental Health concerns.¹⁶ This demonstrates that measures designed to prevent young people from being formally criminalised have been effective but the need for specialist intervention remains.

41. Young people arrive at court often having exhibited many of the behavioural characteristics set out at para.31. Some additional elements apply which often give rise to the need for a formal court appearance. These are often exemplified by:

- The presenting offence is deemed 'so serious' (as defined by the guidance set down by the Sentencing Council and the Court of Appeal)¹⁷ irrespective of previous antecedents
- Offending which has an element of aggravating features, including targeted violence, inappropriate sexualised conduct, 'volume and frequency', often linked to theft and burglary;
- Behaviour which constitutes the breaching of any community based sanction

42. The age of children and young people presenting is mainly (but not exclusively) over 15 years of age.¹⁸ Consequently, this should define

¹⁶ <http://wales.gov.uk/consultations/people-and-communities/improving-services-for-young-people-in-youth-justice-system/?lang=en>

¹⁷ <http://sentencingcouncil.judiciary.gov.uk/sentencing-guidelines.htm>

¹⁸ <https://www.gov.uk/government/uploads/...data/.../yjb-stats-2011-12.pdf>

the type of response best suited to the young person when facing court proceedings. Not all behaviour has mental health pathology. However, the range, type and scale of offending likely to be presented to a youth court will suggest whether a Mental Health assessment is helpful.

43. Where it becomes essential is when the presenting offence clearly indicates underlying risk(s) and causal factor(s) often associated with specific offending behaviour, including: targeted violence; inappropriate sexual and /or predatory activity including the focus on younger age-specific victims; fire-setting; behaviour where the presenting risk is likely to cause personal injury, is reckless to the safety of others and its consequences likely to result death or serious injury (often associated with thrill seeking and may include, for example, aggravating car theft).
44. The Mental Health need assessment, arranged by the Youth Offending Service with a CAHMS specialist will help determine:
- The extent to which the presenting behaviour is a symptom of a more complex condition and whether a full clinical assessment is required
 - Accessing assessment to determine cognitive function and the presence of a learning disability or difficulty (characteristics present in many young people who offend)
 - Whether formal treatment or a related mental health intervention is required
 - How best the Court might sentence, given the needs assessment can help inform the pre-sentence report process and the most effective outcome likely to achieve a de-escalation of the behaviour

Remand or Sentence To Custody (Secure Care or Juvenile Detention)

45. If the presenting offence is so serious that a remand into a secure children's home or juvenile unit within a custodial establishment, the need to fast track a mental health assessment and to act on its findings becomes critical. This imperative is emphasised within the YJB's commissioned Health Needs Assessment, recently completed by appointed consultants¹⁹. This study stressed the need for all young people entering secure care must be subject to a Mental Health assessment and when needs are identified, a coherent care plan formulated.
46. CAHMS services provide in-reach into the two established secure facilities for children and young people in Wales which can include referral to a Consultant Psychiatrist. The Forensic Adolescent Consultation and Treatment Service (FACTS) is a national service and resource that provides advice, assessment, liaison and in-reach services for young people held in a secure facility and can help

¹⁹ Health Needs Assessment within the Secure Estate: a YJB commissioned report March 2014.

determine the level and type of intervention. Given the known adverse effects of a period in custody, specifically for those with a Mental Health diagnosis, the emphasis during this stage is on a coherent care and treatment plan, led and co-ordinated by a named care coordinator .

47. It is suggested therefore that to address the needs of this group of young people, referral pathways to key services must become simplified and uncluttered. The extent a multi-agency approach is genuinely adopted to determine how best to respond to the presenting mental health condition of a young person will help inform effective practice. The greater the inclusion of relevant agencies, the greater likelihood of an effective outcome.

Revision of the formal court/pre-sentence process

- When a young person has been arrested, charged and is to appear before the court and presents with a Mental Health concern the completion of a mental health screening by a CAHMS specialist, ideally working within the YOT, is essential to inform an effective intervention plan
- Intervention should normally be a multi-disciplinary approach. Specific offence types should attract a fast track response, particularly those for young people held on secure remand
- The availability, referral pathways and regional map of specialist service provisions should be clearly understood by practitioners
Courts, at the point of sentence, should expect to receive a summary of mental health needs of a young person, designed to help inform an appropriate outcome
- One lead agency should be designated and responsible for the case management

THE CONCLUSION OF A STATUTORY SENTENCE OR COMMUNITY SUPERVISION ORDER

48. Technically, when a young person's sentence ends, with it ends any formal requirement of YOTs to maintain involvement. Ideally, at this point the key emphasis should, where appropriate, be on care, support and if necessary, treatment continuity. The YJB's national standards set out the key practice and supervision requirements placed on YOT's and their practitioners both at the conclusion of supervision or when responsibility for a young person transfer to the Probation Supervision when the age of 18 is reached.²⁰

49. Partners should at the appropriate point, make arrangements for the necessary information to be shared or passed on. Planning for re-integration and resettlement should start at the earliest point within the sentence. Where available, young people should be encouraged to

²⁰ www.justice.gov.uk/.../youth-justice/national.../national-standard-services

maintain contact with relevant mentoring schemes, designed to help the individual access pro-social resources that can help sustain positive engagement and behaviour.

Minimum Levels of Service Provision

50. The Welsh Government does not seek to impose a single delivery model in how each area should set about delivering services to children and young people who have contact with the justice system. There is a need however, for each area to agree as a minimum, an agreed approach. To meet the health needs of their local population (supported by the requirements of the Mental Health Measure as a basis for delivering services to young people in need) and by working within the framework set out by the CAHMS service, local health boards have a solid foundation on which to build.
51. The Measure places duties upon LHB and LA to provide services at both a primary and secondary care level. Local Primary Mental Health services provide a holistic mental health assessment and short term intervention for all those referred by a GP and certain secondary services. Part 2 ensure those in receipt of secondary services have a care co-ordinator and Care and Treatment Plan which is recovery based covers a wide range of needs.
52. In order to deliver the minimum level of service set out below, it will be necessary to ensure sufficient numbers of appropriately skilled staff to make the service provision effective. The composition of staff teams is a matter for local determination and will be managed within existing resources.
53. In summary, to deliver the requirements of the Welsh Governments stated commitment- '*To ensure services better meet the needs of children and young people who are at risk of entering or already in the Youth Justice System*- a minimum level of service provision should include:
 - Unless already established, the creation of a single multi-agency group (for example the youth inclusion support panels) who act as the single point of reference for those children and young people identified as requiring some form of intervention in each area
 - Anti-social behaviour co-ordinators are universally regarded as being the early point of contact for those at the pre-arrest stage, so areas should ensure this resource is better understood, and their duties explained more widely and the role enhanced
 - Clear local referral pathways for all levels of need from diversionary activity through to high levels of intense treatment are established

- Referral pathways should comply with the legal requirements of the Measure and the approach by CAHMS set out by the national expert group
- Referral thresholds to access specialist services should be defined, published and promoted across the young peoples sector. This includes referral pathways into children's services when safeguarding requirements give rise to concern
- CAHMS specialist and Forensic youth justice nurses and clinicians were universally recognised as being central to each of stage of the pathway: a commitment to co-locate some of those sessions within youth offending services, as is the current stated policy, must be adopted in all areas.
- Unless a child or young person is already part of the looked after system, (when social services take the lead), local partners should agree a protocol which places case management responsibility with a named practitioner
- Practitioner forums should be resurrected across geographical areas, led by the youth offending teams
- Good practice suggests increasing the use of the CALL helpline facility and/or NHS direct when seeking access to or information about local service
- Children and young people held in secure facilities with mental health needs should be able to access services according to clinical need and must not be excluded due to their location in the secure system.
- CAHMS in-reach services should be based on a formal memorandum of understanding or other agreement depending on the commissioning mechanism and delivered within a clinical governance and performance management framework
- Where and whenever possible, children and young people and their families should be included in the decision making process

SERVICE OUTCOMES AND EVALUATION

54. Mental Health and Criminal Justice Partnership Boards and LHB's in particular will want to satisfy themselves that the allocation of resources to the range of service provision meets both legal requirements and achieves the desired effect. Currently, there are no performance measures which focus on outcomes: essential to help future planning and to inform opinion on whether current or new arrangements are effective. The YJB are preparing indicators which relate specifically to presenting Mental Health and Substance Misuse issues. When published, these will need to be referenced and taken in due account.

55. Data collection to support evaluation of services outcomes will require multi-agency participation. To measure the impact, especially in areas re-focusing provision in light of this guidance it will be useful and probably essential to ascertain a baseline of data. More work is

required to define this work at a national level and will be considered in a later phase of the Mental Health core data set project.

GOVERNANCE ARRANGEMENTS

56. The majority of this advice is directed at Health Boards and the Management Boards of Youth Offending Teams. Consequently existing board governance structures should be utilised. Responsibility for delivery of this area of policy sits with the Mental Health and Criminal Justice Partnership Boards, already in place and who have cross agency membership. Critically this extends to youth justice and related services; local authorities including education, police, probation and the courts. MH&CJPBs should provide the overarching governance of local service provision, set the pace and work within a published agreed local delivery plan which sets out common purpose. This approach should include:

- Agreement by the board to publish a new statement of purpose and delivery plan which sets out the key objectives designed to improve and develop services for this cohort of young people
- Development, agreement and review of existing local practices and specifically referral protocols designed to simplify access pathways. These can be produced at an operational level and approved by the Board
- A commitment to review and then publish clear delineation of roles and responsibilities of both services providers and wider stakeholders-designed to provide clarity of purpose
- A review of how resources are deployed and to explore joint-funded initiatives designed to create improved efficiencies and effectiveness
- For boards to agree to a review and evaluation against mutually agreed outcome and process measures and a requirement to produce an annual report to the national MH partnership Board documenting achievements and where necessary, barriers to progress
- A commitment for areas to host a practice based event designed to promote exemplar services and to demonstrate where achievements have been made

Key Legislation:

The Children Act 2004

The Children Act 2004 makes provision about services provided to and for children and young people by local authorities and other bodies and requires that they work together in improving the well-being of children in the local area. It enables local authorities and its statutory partners to pool their budgets and non-financial resources.

The Welsh Government has adopted the UN Convention as the foundation for all its dealings with children and young people, and local authorities and their relevant partners should have regard to its principles in providing services (sec 2.11). Strategic partnerships (known as children and young people partnerships) have been in place since 2002 and have been on a statutory footing since the above legislation in 2004. Local authorities and key partner agencies are required in law to cooperate to improve the well-being of children and young people in the local area. The Children Act 2004 placed a duty on every local authority in Wales to appoint a lead director and lead member for children and young people's services.

Local health boards have to designate lead officers and lead members of NHS Trusts designate lead executive and non-executive directors with responsibilities mirroring those of the local authority lead director. Each of the 22 Children and Young People Partnerships are required to produce a children and young people's plan setting out "how the well-being of children and young people will be improved". These plans are based on the Welsh Government's 7 Core Aims which are a direct translation of the UNCRC.

- A flying start in life: Articles 3, 29, 36
- A comprehensive range of education and learning opportunities: Articles 23, 28, 29, 32
- Enjoy the best possible health and freedom from abuse, victimisation and exploitation: Articles 6, 18-20, 24, 26-29, 32-35, 37 and 40.
- Access to play, leisure, sporting and cultural activities: Articles 15, 20, 29, 31
- Be listened to, treated with respect and have their race and cultural identity recognised: Articles 2, 7, 8, 12-17, 20.
- Have a safe home and community which supports physical and emotional well-being: Articles 19, 20, 25, 27, 32-35, 37 and 40.
- Are not disadvantaged by poverty: Articles 6, 26, 7, 28.

Mental Health (Wales) Measure 2010

The Mental Health (Wales) Measure 2010 (the Measure) has the same legal status in Wales as an UK Act of Parliament. It makes provision regarding primary mental health support services; the coordination of and planning for secondary mental health services; assessments of the needs of former users

of secondary mental health services; independent advocacy for persons detained under the Mental Health Act 1983 and other persons who are receiving in-patient hospital treatment for mental health; and for connected purposes. The Measure passed by the National Assembly for Wales on 2 November 2010 and approved by Her Majesty in Council on 15 December 2010. The Measure will ensure appropriate care is in place across Wales which focuses on people's mental health needs.

It places new legal duties on Local Health Boards and Local Authorities about the assessment and treatment of mental health problems. The Measure also improves access to independent mental health advocacy for people with mental health problems.

The Measure has four main Parts:

- Part 1 of the Measure will ensure more mental health services are available within primary care.
- Part 2 makes sure all patients in secondary services have a Care and Treatment Plan.
- Part 3 enables all adults discharged from secondary services to refer themselves back to those services.
- Part 4 supports every in-patient to have help from an independent mental health advocate if wanted.

The Care Standards Act 2000

In November 1998 and March 1999, the Government published two White Papers on its proposals for social services in England and Wales. Detailed proposals for the regulation of private and voluntary healthcare in England and for the regulation and inspection of social care and healthcare services in Wales were set out in consultation documents issued in 1999. The Government's proposals for the regulation of early years education and day care were set out in a consultation document issued in 1998. The recommendations and proposals for the Children's Commissioner for Wales were set out in Sir Ronald Waterhouse's Report Lost in Care, and in the report of the Health and Social Services Committee of the National Assembly for Wales on a Children's Commissioner. This Act implements the main proposals in the following documents

- Modernising Social Services (Cm 4169), published in November 1998
- Building for the Future (Cm 4051), published in March 1999
- Regulating Private and Voluntary Healthcare: A Consultation Document, published in England in June 1999
- Regulation and Inspection of Social and Health Care Services in Wales – A Commission for Care Standards in Wales, published in July 1999
- Regulating Private and Voluntary Healthcare in Wales, published in August 1999

- The Regulation of Early Years Education and Day Care, published in March 1998
- Review of the Regulation of Early Years Education and Day Care in Wales, published in August 1998.
- Lost in care – The Report of the Tribunal of Inquiry into the abuse of children in care in the former county council areas of Gwynedd and Clwyd since 1974, published in February 2000. (HC 201; ISBN 0-10-556660-8)

In summary this Act -

- establishes a new, independent regulatory body for social care and private and voluntary healthcare services (“care services”) in England to be known as the National Care Standards Commission;
- provides for an arm of the National Assembly for Wales to be the regulatory body for such services in Wales;
- establishes new, independent Councils to register social care workers, set standards in social care work and regulate the education and training of social workers in England and Wales;
- establishes an office of the Children’s Commissioner for Wales;
- reforms the regulation of childminder’s and day care provision for young children;
- provides for the Secretary of State to maintain a list of individuals who are considered unsuitable to work with vulnerable adults and children

NICE Guidance

<http://publications.nice.org.uk/quality-standard-for-the-health-and-wellbeing-of-looked-after-children-and-young-people-qs31#overview>

QS31 Quality standard for the health and wellbeing of looked-after children and young people

The Crown Prosecution Service:

Guidance and Principles Which Govern the Sentencing of Children and Young People, Having Regard to Overarching Legislation and Mental Capacity

http://www.cps.gov.uk/legal/v to z/youth_offenders/#a01

Brief descriptions of prevention and diversion programmes

Programme	Brief description	Category
Other Education	General education offered by youth offending teams and their partners to young people that informs and warns about the dangers of crime and becoming involved in the criminal justice system. Can work themed around offence types and interventions that engage through the use of constructive leisure activities.	General Education
Schools	School-based work which encompasses a wider family approach and focuses on restorative approaches; generally delivered by YOTs. Can also include school-based youth workers and other partners e.g. youth services and Police - primarily through the All Wales School Liaison Programme.	
Operation Staysafe	Joint project with South Wales Police which aims to reduce anti social behaviour, safeguard children, reduce FTE's, develop a vibrant and safe night time economy, assist people to feel safe in their communities, reduce damaging alcohol consumption and behaviour.	Geographically Focused
SPLASH	Constructive activities delivered through school holidays by YOTs and partners in areas identified as high crime/deprivation. Can include various activities including arts & crafts, outdoor activities and structured learning.	
Acceptable Behaviour Contract	Young people identified as anti social by Police and CSP and an assessment is carried out. Young person attends session run by YOT Police officer where conditions of an acceptable behaviour contract (ABC) are explained. Intervention offered to young person and often family to reduce risk of re-offending. Restorative interventions are also undertaken.	Targeted Multi-Agency
ASB Referral & Intervention	Working with young people and their families to address the causes of anti-social behaviour and to re-integrate young people into their community in a more positive manner. Tiered approach to avoid use of ABC's and ASBOs.	
Family Group Conferencing	Family Group Conferencing / Family Conflict Resolution are structured processes using the ethos of mediation. Principles include; independence; impartiality; confidential; voluntary / consent led. Can take place in family home or agreed neutral location and includes assessments to include issues / thoughts / feelings. Achieved via group and face to face work	
Integrated Offender Management	Integrated Offender Management encompasses a variety of approaches which focus on not just the young person, but the wider family members / influences. An example of this would be family 'mapping' where potential risks or vulnerabilities are identified and interventions put in place to prevent escalation. This allows referral to targeted prevention services.	
Parenting	A variety of programmes to offer parents / carers support to deal with young person's behaviour which can lead to crime or vulnerability issues. These could include direct / intensive interventions with parents, drop-in services, and group work.	
Team Around Family/Child	An approach which aims to hold the family at the core and aims to identify and tackle identified problems via intensive, multi agency involvement. Assessments and interventions are planned and carried out over an identified period of time and are usually intense in their approach.	

Yellow Card	As with ABCs, yellow cards offer an approach away from the justice system and enables Police to deal with young people on the spot. As with other programmes, identified offences or anti social behaviour must be low level and requires the young person to identify / buy into their behaviour and subsequent warning.	
YISP/YIP	Youth Inclusion & Support Panels are multi agency planning groups that seek to prevent offending and anti social behaviour by offering voluntary support services to high risk young people (usually 8 to 13 year olds) and their families.	
Bureau	A multi-agency process to divert young people away from entering the youth justice system. This process engages key stakeholders (children, parents, victims and other agencies) and, utilising intelligence-led assessments, provides appropriate non-criminalising services designed to reduce reoffending and promote pro-social behaviour.	Pre-Court Diversion: Panel
Triage	Triage works with young people who are arrested for cautionable offences but bailed pending a referral for a Youth Restorative Disposal. Work is also undertaken with the victims to enable them to participate in the restorative process.	
Community Resolutions (YRD)	Community Resolutions (formerly Youth Restorative Disposals) are open to young people with no previous involvement in youth justice system and/or who commit offence low level offences and admit guilt. They agree to engage in the RJ process and receive an assessment. Intervention could be face to face, group work, letters to victims, community reparation.	Pre-Court Diversion: On the spot
Restorative Justice Diversion	A quick and proportionate response to low level offending which allows the victim to have a say in how the offence is resolved. Using restorative justice techniques, the young person has to face up to the impact of their offence, offer an apology and examine why the offence took place. Where identified, a plan is developed to tackle and make good the offence.	

Schedule of Definitions of Mental Health and Illness and Related Conditions:

<http://www.mind.org.uk/information-support/legal-rights/mental-health-act-the-mind-guide/>

<https://www.nacro.org.uk/data/files/nacro-2006071402-104.pdf>

<http://www.justice.gov.uk/youth-justice/health/mental-health>

<http://www.wales.nhs.uk/sitesplus/888/page/67512>

National Expert Reference Group - CAHMS, (in Wales)

Principles of All Services

The following principles apply to all elements of service described in this document. Services should:

- Be child and family centred, acknowledging and valuing the family and the contribution they bring, however the family is constructed.
- Work to engage and empower families to enable them to use their own resources as part of the solution.
- Work in partnership with other agencies and disciplines in health, social and education services and criminal justice and voluntary agencies to encourage discussion prior to referral to ensure our service can provide appropriate interventions for children and families.
- Promote early and easy access to provide specialist assessment and intervention as early as possible.
- Be culturally sensitive.
- Be safe, ensuring safeguarding of young people is paramount and all staff are appropriately recruited and trained.
- Deliver services within the legal frameworks relating to young people such as Children's Act, (1989 and 2004), The Mental Health Act 1983, The Mental Health (Wales) Measure 2010, The Rights of Children & Young Persons (Wales) Measure 2011, and Human Rights legislation.
- Deliver services in accordance with the Welsh Language (Wales) Measure 2011, with bilingual (Welsh and English) services available, including interventions delivered through the medium of Welsh.
- Enable workforce planning to ensure the provision of training opportunities for a skilled and knowledgeable workforce to meet the needs of all service users in Wales, including their Welsh language needs.
- Be accessible and delivered to children according to need. If necessary specific arrangements regarding access should be made for children in special circumstances who are often excluded from traditional models of care. These include looked after children, children with learning and sensory disabilities, children in the youth justice system, children misusing substances etc.
- Have a team comprising adequate numbers of staff that are trained in and can deliver evidenced based, effective therapies to meet the needs of all children.
- Promote positive health and avoid unnecessary stigmatisation or labelling.

- Involve children and young people and their carers in our planning, delivery and development of services
 - Have strong governance structures that ensure ongoing staff development, supervision, compliance with NICE guidelines and other national performance measures
 - Have robust transition arrangements between services across the age range, utilising the necessary services from both CAMHS and Adult Services as appropriate. (See Annex 5 for suggested model. This builds on the proposals previously provided by the Welsh Government on 14 December 2011 for a joint approach to the provision of specialist mental health services for 16 & 17 year olds.).
 - Have robust information sharing arrangements between services across agencies that ensure risk and safeguarding issues are foremost (See annex for suggested model)
 - Promote well-being, recovery and resilience.
 - Be fluid and flexible, provide support at the right level and ensure continuity between different services and tiers of service.
-

Tiers of CAMHS Service Provision

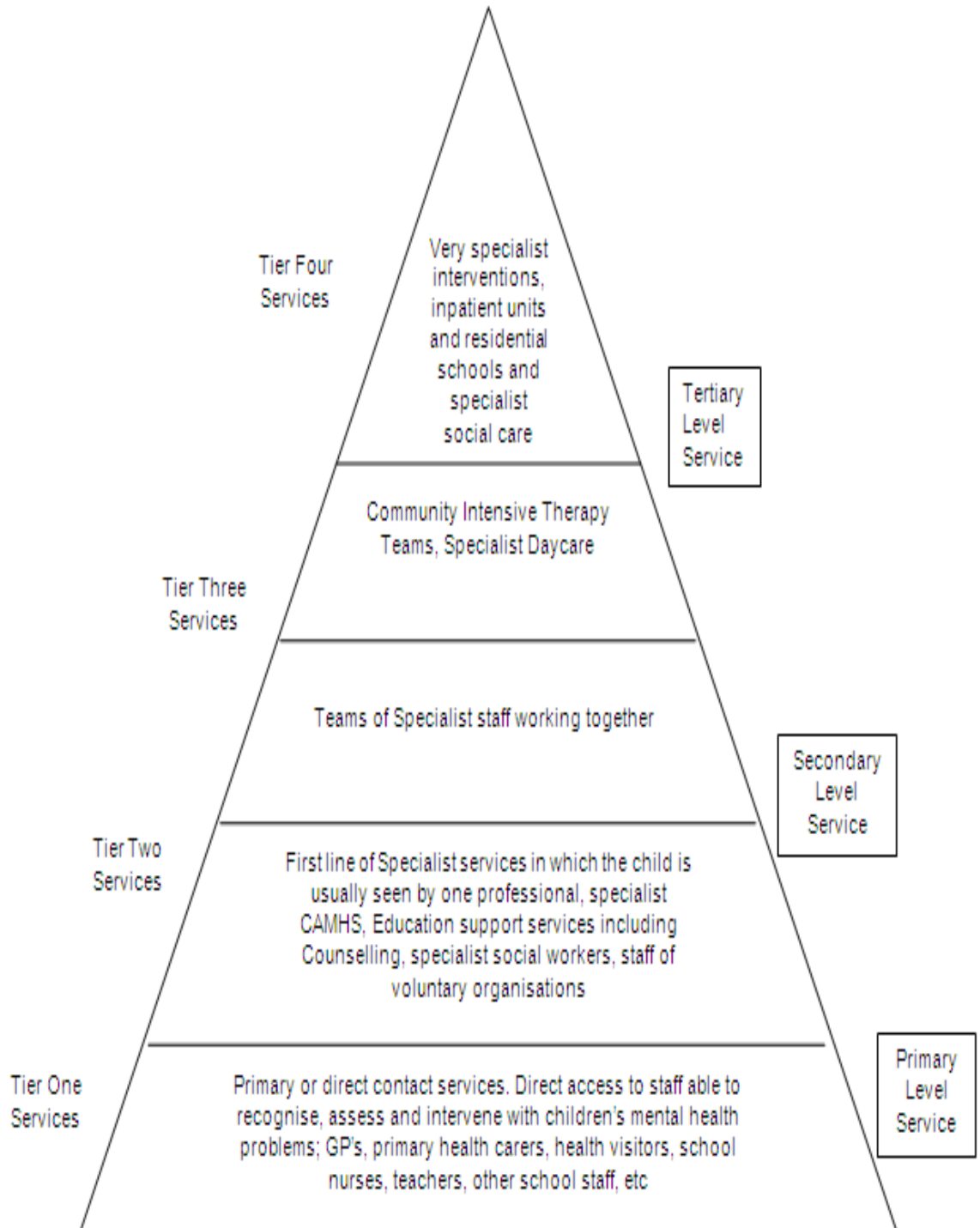


Figure 1 – A tiered framework for Child and Adolescent Mental Health Services
The left column refers to 'tiers' as traditionally defined for CAMHS