



**Cynulliad Cenedlaethol Cymru
The National Assembly for Wales**

**Y Pwyllgor Diwylliant a Chymunedau
The Communities and Culture Committee**

**Dydd Iau, 9 Gorffennaf 2009
Thursday, 9 July 2009**

Cynnwys
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Inquiry into Youth Justice—Evidence Gathering

Cofnodir y trafodion hyn yn yr iaith y llefarwyd hwy ynddi yn y pwyllgor. Yn ogystal,
cynhwysir cyfieithiad Saesneg o gyfraniadau yn y Gymraeg.

These proceedings are reported in the language in which they were spoken in the committee.
In addition, an English translation of Welsh speeches is included.

Aelodau'r pwyllgor yn bresennol
Committee members in attendance

Alun Cairns	Ceidwadwyr Cymreig Welsh Conservatives
Janice Gregory	Llafur (Cadeirydd y Pwyllgor) Labour (Committee Chair)
Mark Isherwood	Ceidwadwyr Cymreig Welsh Conservatives
Bethan Jenkins	Plaid Cymru The Party of Wales
David Lloyd	Plaid Cymru The Party of Wales
Joyce Watson	Llafur Labour
Kirsty Williams	Democratiaid Rhyddfrydol Cymru (yn dirprwyo ar ran Eleanor Burnham) Welsh Liberal Democrats (substitute for Eleanor Burnham)

Eraill yn bresennol
Others in attendance

Edwina Hart	Aelod Cynulliad, Llafur (y Gweinidog dros Iechyd a Gwasanaethau Cymdeithasol) Assembly Member, Labour (the Minister for Health and Social Services)
Eddie Isles	Cadeirydd, Rheolwyr y Timau Troseddau Ieuenctid, Cymru Chair, Youth Offending Teams Managers, Cymru
Peter Jones	Dirprwy Gyfarwyddwr yr Is-adran Diogelwch Cymunedol, Llywodraeth Cynulliad Cymru Deputy Director of Community Safety Division, Welsh Assembly Government
Joanna Jordan	Pennaeth yr Is-adran Diogelwch Cymunedol, Llywodraeth Cynulliad Cymru Head of Community Safety Division, Welsh Assembly Government
Andrew Neilson	Cyfarwyddwr Cynorthwyol, Materion Cyhoeddus a Pholisi, yr Howard League for Penal Reform Assistant Director, Public Affairs and Policy, the Howard League for Penal Reform

Swyddogion Cynulliad Cenedlaethol Cymru yn bresennol
National Assembly for Wales officials in attendance

Tom Jackson	Clerc Clerk
Annette Millett	Dirprwy Glerc Deputy Clerk

Dechreuodd y cyfarfod am 1.04 p.m.
The meeting began at 1.04 p.m.

Cyflwyniad, Ymddiheuriadau a Dirprwyon Introduction, Apologies and Substitutions

[1] **Janice Gregory:** I will begin with the usual housekeeping announcements. I welcome the Minister and her officials. As always, I remind Members that the National Assembly for Wales operates through the media of the Welsh and English languages. A translation is available on channel 1 and the amplification of the sound is on channel 0. I ask everyone to ensure that they have switched off their mobile phones, BlackBerrys, pagers and any other electronic device that they may have on their person. I am given to understand that there will be no fire drill today, so, if the alarm sounds, we will be asked to leave the building in a safe fashion. Please follow the ushers, who will direct us to the nearest safe exit and assembly point.

1.05 p.m.

Ymchwiliad i Gyfiawnder Ieuenctid—Casglu Tystiolaeth Inquiry into Youth Justice—Evidence Gathering

[2] **Janice Gregory:** We continue our inquiry into youth justice today, and I am delighted to welcome formally Edwina Hart, the Minister for Health and Social Services, Joanna Jordan, the head of the Community Safety Division, and Peter Jones, deputy director of the Community Safety Division. Good afternoon to you all and welcome to the Communities and Culture Committee. You will know that the terms of reference of this inquiry relate to young people in the secure estate, and I remind Members that that is the focus of our inquiry today. We have a series of questions for you, Minister. Do you have some opening remarks, or would you like to move straight to the questions?

[3] **The Minister for Health and Social Services (Edwina Hart):** I do have a few opening remarks to make. I begin by thanking you, Chair, and the committee for allowing me to give evidence today because it was not convenient for me to do so at an earlier time. I thought that Members would be interested to know that the Cabinet has been discussing the possible devolution of the youth justice service to Wales, and I am pleased to announce today that I have engaged Professor Rod Morgan to undertake a study and to prepare a report to Cabinet on the risks and benefits of devolving responsibility for youth justice to the Welsh Ministers. The Cabinet has agreed that the benefits of devolving responsibility for youth justice are potentially significant, but more work is required to identify and quantify these accurately if a convincing case for devolution is to be made to the UK Government.

[4] Professor Morgan is probably the pre-eminent authority on youth justice issues in the United Kingdom, with a long and distinguished background, academically and professionally. He has been a recent chair of the Youth Justice Board for England and Wales and you will recall that we had excellent relationships with him when he was chair. He is also professor of criminal justice at the University of Bristol. I am very glad that he has agreed to undertake this important study, which I think has a crucial bearing on the future of some of our most vulnerable young people. I am writing to all Assembly Members today announcing the study, and I expect a report to be available for consideration by the Cabinet by the end of the year.

[5] **Janice Gregory:** Thank you, Minister, for bringing that to this committee today and for making the announcement here. I am sure that we are all very pleased to hear that Professor Morgan will be undertaking this study for the Cabinet. Thank you for that. We will now move to questions, the first of which is from Joyce Watson.

[6] **Joyce Watson:** Good afternoon, Minister. Merthyr Tydfil has one of the highest rates of young people being given custodial sentences of anywhere in England and Wales. Could

you outline the work that has been done to reduce the use of custody in Wales and the further action that might be needed?

[7] **Edwina Hart:** The Assembly Government has recently written to chief executives asking them to consider ways of reducing the use of custody in Wales, which is the policy position of the Government. With reference to Merthyr Tydfil, the all-Wales offending strategy delivery plan for 2009-11 sets out our commitments to expand the settlement and aftercare provision for children and young people leaving custody. As part of that, the youth justice board is making additional funding available to expand the resettlement support in selected areas of Wales, one of which is Merthyr Tydfil. That involves the establishment of resettlement support panels, which aims to ensure that young people coming out of custody are given the best help available in a very co-ordinated way.

[8] In addition, North Wales Police currently has a restorative justice policy, which keeps children who commit their first minor offence out of the youth justice system. That is quite an important development. I have always taken the view, as Minister, that we are talking about children. We have to understand that this is about children and vulnerable people, so it is very important that there is adequate funding for youth offending teams in Wales to support work with children and young people serving community sentences. Effective community-based sentencing is the alternative to custody for children and young people.

[9] **Janice Gregory:** We will now move on to children's rights and welfare. Given the recent international scrutiny of the youth justice system across the UK by the United Nations Committee on the Rights of the Child and the clear concerns about children's rights, what specific concerns do you have about Welsh children in the secure estate, whether in England or Wales? Secondly, what action is needed to ensure that all establishments have a culture that is centred on the child?

1.10 p.m.

[10] **Edwina Hart:** This is quite a difficult area, because we have some very specific concerns, and we think that Welsh children in the secure estate, whether in England or Wales, should be placed in smaller establishments close to their families and home communities, so that they can maintain regular contact with them. That is not the current pattern of events across the United Kingdom.

[11] I am also concerned that Welsh children are sometimes culturally and educationally disadvantaged by going to England, and there are other issues, such as the lack of Welsh language provision for young people in juvenile secure accommodation in England. I am pleased that steps have been taken to improve accommodation at the Stoke Heath and Ashfield institutions, but I stress that that is no substitute for the establishment of appropriate accommodation in Wales. The lack of Welsh facilities is significant for people from north Wales, and I am fully supported by the Children's Commissioner for Wales in my views that more small centres that have more of a community focus should be established in Wales to deliver for those Welsh children who do have to go into custody. I raise these issues at every meeting—and I am looking at my head of division here—with the youth justice board. I make it clear to the board that our views are as I have expressed today: there should be small units and effective delivery. We are not helping Welsh children who go into that wider system.

[12] **Joyce Watson:** I went on a fact-finding mission to HMP Eastwood Park on Monday and heard evidence, along with others, that the UK Government intends to merge young offenders, namely those aged 18 to 21, with the general adult population. Would you agree that the rights-based agenda cannot be delivered for young people placed in English institutions, especially those aged 18 to 25?

[13] **Edwina Hart:** Yes, I would concur with your comments. The committee might want to consider writing to the head of the national offender management service in Wales about this matter and perhaps take evidence from NOMS on this, as appropriate.

[14] **Bethan Jenkins:** You have already said what you think the problems are with the secure estate, and they include problems with education, with sending young people to England, and their not being close to their families. What type of secure estate provision do you think is needed in Wales, therefore? You have already touched on it, but what would have the greatest impact on rehabilitating those young offenders and ensuring that they do not offend again?

[15] **Edwina Hart:** On the secure estate, we put our money into delivering additional beds in the Hillside Secure Unit. It is a small unit, and I understand that committee members have taken the opportunity to visit it. It might not look wonderful from the outside but, inside, the delivery of its services is the model that we wish to consider. It is certainly a model that we have discussed with the youth justice board with regard to trying to bring the facilities to north Wales. That type of model concentrates on education, valuing young people and upskilling them, which is what is required for the future of these youngsters. That is how we would look at it broadly. Joanna, do you want to add anything?

[16] **Ms Jordan:** Smaller units can be set up to deal with the particular needs of children and young people, such as those who have drug and alcohol problems, and more specialist treatment can then be attached to them. It is very difficult to achieve that in larger units.

[17] **Edwina Hart:** You ought to be aware that we have lobbied the UK Government quite heavily about the situation in north Wales. We are prepared to make additional resources available. We enjoy the support of all local authorities in north Wales to deliver something up there, but it was made quite clear by David Hanson, the Minister at the time, although I do not know whether he is the current Minister, that the resources were not available. We have to recognise that there are resource issues, but if we do not invest in young people at this very difficult stage, while they are in custody, we will have to face more long-term problems. In our view, if they go into custody, it is important that we do something with them such as training and development so that we can set them on a different path. We need smaller units with staff who have the ability to treat them more as individuals. That would make a tremendous difference. So, we will continue to lobby. We have a new member of the youth justice board in Wales, who follows on from the excellent member whom we had previously, and whose views are very much in line with those of the Welsh Assembly Government.

[18] **Bethan Jenkins:** Can you clarify what the financial and legal arrangements and responsibilities are for the provision of local authority children's homes for young offenders in Wales, and whether there is any scope for the Welsh Government to develop its own approach to secure-estate provision in Wales, which could include increasing the number of local authorities' secure children's homes? Do you think that that would potentially require new legislation or is it something that you can do already?

[19] **Ms Jordan:** At the moment the Youth Justice Board for England and Wales has the statutory responsibility for commissioning and for the provision of juvenile secure accommodation in Wales. That is the current position. The Minister and the Assembly Government have, in a sense, gone beyond that arrangement by offering to fund the capital cost of expanding secure provision in Wales, in order to try to persuade the YJB to deliver the types of models of secure accommodation that we want to see in Wales. As it is not devolved, we do not have the statutory responsibility for running secure accommodation and placing young people in secure accommodation in Wales. That rests with the UK Government and the youth justice board.

[20] **Edwina Hart:** That is why I have asked Professor Morgan to look at the issues surrounding that. There is money attached to it. We were happy to provide the capital, but the revenue implications would be enormous for us, unless we could get the appropriate—

[21] **Ms Jordan:** Yes. There would also be practical difficulties, because the placement of young people rests with the youth justice board. We could be funding the revenue costs of secure places in Wales and find that the YJB puts a child from England in one of them. We would have no control over the placement, because that rests with the YJB under the current devolution settlement.

[22] **Edwina Hart:** If we were to look at providing secure accommodation ourselves, given the emphasis that we would want to put on the language in particular, it would seem absurd that a Welsh speaker could be located across the border when we are providing bilingual facilities in Wales. There are many problems and issues, which is why Professor Morgan will have to do this piece of work, which will draw out those strands and difficulties—for public consultation, more than anything.

[23] **Alun Cairns:** Minister, the Children's Commissioner for Wales has expressed concern about mental health services for young offenders. Can you provide specific details on when tiers 2 and 3 of the child and adolescent mental health service provision will come on-stream for Welsh children in the secure estate, specifically at Parc prison? How will the total care package work for those vulnerable children, and how will it be made available?

[24] **Edwina Hart:** We share the concerns of the children's commissioner on this. We have a very good relationship with the children's commissioner, who agrees with the direction of travel of the Welsh Assembly Government on how young offenders should be dealt with. There is a multi-agency approach by the Bridgend Partnership Board, whose members are all currently working together to develop a business case for the provision of tiers 2 and 3. I was discussing this with officials prior to giving evidence today, and I think that we will have to chivvy them along with regard to the business case, because the response that I always get when I ask is, 'We are preparing the business case.' So, something will have to be done about that.

[25] We expect young people who are detained at Parc prison to have access to high-quality responsive services that are based on their assessed needs. I know that some Members were concerned that that was perhaps not happening. We are also currently developing tier 3 of CAMHS, and I am awaiting a submission on its development. I expect the local health board and social services to get on with it. I would be more than happy, perhaps by the time that you have finished your inquiry, Chair, to give you more positive news on the business case.

[26] **Mark Isherwood:** Last week, Eleanor and I visited Rainsbrook Secure Training Centre, where, among other things, we met the psychiatrist working with young people. We also met five young people from north Wales, and, interestingly, a young woman from Romania. Could you confirm who funds and makes available mental health provision for Welsh children in such secure establishments in England, and how links are made back to the local community, to ensure that their mental health needs on leaving the secure estate are addressed? I will include a supplementary question, if I may. We learnt from the psychiatrist that she wanted two-yearly and five-yearly feedback reports, so that she knew what was happening with the young people. However, she received nothing; the system did not provide feedback. So, she was unable to assess the effectiveness of her own programmes. Do you have any thoughts on that?

1.20 p.m.

[27] **Edwina Hart:** That is quite interesting, because that is not something that we have come across or have been asked about. As you have raised it with me, we will certainly mention it to the youth justice board at one of our meetings. The primary care trust in each area is responsible for the funding of the mental health provision for Welsh children placed in England. They may also commission from other providers if they wish. The funding is provided directly by Whitehall, from the Department of Health. There is an organisation called Offenders Health, which provides guidance on links to the young person's home accommodation when they go back into the system. I am not certain that this is a perfect system with regard to the way that we deal with the situation when the young offender is in, whether they are receiving the appropriate treatment and whether it links in well enough. That is one of the challenges that we will have to look at.

[28] **Joyce Watson:** In your previous answer, you touched a little bit on partnership working. Given that the youth justice board believes that the work of the youth offending teams should be given a higher priority by children and young people's partnerships and by local government, what action will the Welsh Assembly Government and the youth justice board take to encourage local authorities and local partnerships to exercise leadership around the youth justice agenda?

[29] **Edwina Hart:** There has been a lack of leadership around the youth justice agenda. People have got quite stale in their positions and their roles. My new member on the youth justice board is actively starting to engage with various partners. One of the key engagements has to be with local authorities. So, we are doing work with local authority chief executives for them to recognise their role and responsibility in this area. However, as always, we talk about partnership, but, on the ground, it is quite difficult to achieve. This is no exception with regard to what is going on in the youth justice agenda. I do not know, Jo, whether you want to comment about anything practical.

[30] **Ms Jordan:** In the new local government performance framework that has been developed, we have read across our indicators in the joint youth justice strategy that we have with the YJB and we have fed those indicators into the local government performance framework so that it gives a clear signal that this is a priority and is something that we should be doing. Again, some of those indicators link with those in terms of access to substance misuse services and what we have in our substance misuse survey. So, we are trying to make the links across different performance frameworks so that we are lined up on this, to try to give the direction that this is a priority and that it needs to be addressed. That is a key thing that we have done.

[31] **Joyce Watson:** On the establishment of youth offending teams, there is an issue about where such teams sit. Are they part of children's services, or are they a part of the criminal justice system? What is your view on that, as the Minister? How can improvements be made to current arrangements?

[32] **Edwina Hart:** My new member of the board has a social services background. One of the first issues that he raised with me related to the question that you have asked today. It is important to strike the balance here. However, there is the balance between the offender and those who are offended against. There are a number of complex issues surrounding this. He feels that more direct work needs to be done in linking with the partner organisations to tackle some of these wider issues. So, I am arranging for him to meet Gwenda Thomas, my Deputy Minister for Social Services, to see whether they can take a package of meetings and an agenda forward on this particular area, which will help in the long run. However, when we talk about these offenders, we are talking about vulnerable young people. They would not be there if they were not vulnerable. Something has happened in the lives of the majority of them to take them to that place. It is important that we always recognise and emphasise that in these

discussions.

[33] **Joyce Watson:** I will now move on to the ‘One Wales’ commitments. You highlight in your paper the increasing policy divergence from England in the context of youth justice. In what ways does the present division of youth justice powers hinder the Welsh Government in the pursuit of its all-Wales youth offending strategy? What further action is needed to devise a youth justice system that would reflect the policy aspirations of the Welsh Government’s strategy for children and young people from Wales?

[34] **Edwina Hart:** What I announced when I first came in indicates the start of a very public debate that we need to have on these issues. We have improved, in recent years, our working relationship with the youth justice board on the basis of improving services for children and young people. I would not say that it is a perfect relationship, but our joint youth custody strategy indicates that we are moving in the right direction. I do not always agree with UK Government policy in these areas. For example, we have grave concerns about fixed penalty notices and such issues. The UK Government over-emphasises some issues that I would not when, for example, trying to deliver children back into society.

[35] **Bethan Jenkins:** Could we provide Professor Rod Morgan with the work that the committee has done so far, so that he can be aware of our work?

[36] **Janice Gregory:** Yes.

[37] **Edwina Hart:** That would be helpful. The youth justice agenda needs to have some eyes looking at it. Many issues need to be addressed, particularly on the mental health needs of young offenders. Most importantly, we need to recognise that we could achieve much more in delivering services for young people if they were in smaller units. For example, we could then provide specialist advice on alcohol and drugs and those young people could be seen more. When I visited Hillside secure unit, there was clearly a different atmosphere there as compared with other institutions. They feel more a part of a family at Hillside and have more links to their community, which is important.

[38] **Janice Gregory:** Thank you, Minister and officials. Before we move on to our next witness, I welcome to the public gallery a group of senators from the Philippines. Good afternoon; you are very welcome to the Communities and Culture Committee.

[39] I now invite Mr Eddie Isles, representing youth offending teams managers, Cymru, to the table. Good afternoon and welcome, Eddie. Thank you for your paper. We will move straight to questions; I understand that you are happy with that.

[40] **Mr Isles:** Indeed I am.

[41] **Bethan Jenkins:** In your paper, you highlight concerns about the current lack of sufficient capacity for children and young people to serve their custodial sentences in Wales. What specific concerns do you have about the current lack of capacity and what further action is needed to improve the experience of Welsh children and young people in such situations?

[42] **Mr Isles:** The current capacity is limited; I think that we currently have 13 beds at Hillside secure unit in Neath, which are commissioned by the youth justice board. The provision at Parc has been substantially increased over the last few years, which we welcome, because it means that this problem is somewhat alleviated in south Wales. However, for north and west Wales, the issue remains the same—there is no provision in Wales. Our concerns about the implications of that are numerous. There are services that young people should be able to access as of right, because they are Welsh, but they are no longer able to access those services when they serve sentence in English establishments. There are clear issues for young

people from the north, particularly those whose first language is Welsh.

[43] Some youth offending teams in north Wales have sought to alleviate some of these difficulties by purchasing additional services from organisations such as Careers Wales and by making those services available in English institutions. However, it still denies young people access to the full range of services. There are particular concerns about the assessment of the mental health needs of young people in prison establishments in England in relation to gaining access to services that are then commissioned within Wales. There have been notable difficulties in accepting assessments by English NHS staff, affecting spending decisions made in Wales. Those issues need to be seriously considered, because the young people on the receiving end of those decisions have already been sent to custody and mental health issues may have been identified that are frequently associated with the risk that they may pose to the general public.

[44] Therefore, there are broad issues to deal with here. For example, education and access to the Curriculum Cymreig is exceedingly limited and the relevance to the careers service is again different. The committee will inevitably be aware of the differences in provision between England and Wales. The position of children's trusts in England and the Connexions Direct agency, for instance, as a targeted resource for careers advice for young people, is something that is at variance with policy in Wales, which has considered the provision of these services as being much more universal.

1.30 p.m.

[45] **Bethan Jenkins:** In your paper, you state that issues of safeguarding established by secondary legislation and the Children Act 2004 cannot be followed as they should be by young offenders' teams and local authorities. Can you expand on why that is difficult and how those barriers could be overcome?

[46] **Mr Isles:** If we were working within a completely Welsh environment, there would be an absolutely straight follow through in provision. The links back to the home area are the critical issue. If, for instance, we have a young person in Ashfield, the responsibilities for safeguarding now exist in all establishments across England and Wales, but the provision is provided through services from Bristol. The link is then to the safeguarding board in Bristol and none of these issues come back into Wales. It requires a significant amount of duplication of effort to make sure that the needs of the young person are actually met. While it might provide reassurance on some of the issues of immediate difficulty within the prison establishment, it does not address any of the issues that we might be experiencing as long-term needs for that young person. It is an issue of linkage and coherence in the planning of sentencing and access to services in the community on release.

[47] **Alun Cairns:** Hot on the heels of my visit to Hillside secure children's home, you have highlighted Hillside as an example of best practice in meeting the needs of young people whose removal from the community is sadly unavoidable for the purposes of public protection. I would add, having been to Hillside, that I was extremely surprised by the nature of the individuals there. I thought that we might have seen some streetwise young kids who knew the system and could work the system, but they were far more vulnerable than I had ever appreciated or thought that they might be. I wanted to place that on the record. How does the regime and approach to children and young people at Hillside differ from those used at other secure units? How does that approach benefit children and young people?

[48] **Ms Isles:** Hillside does not necessarily differ from other local-authority run secure units, but I think that it is extremely well run. The same sort of provision can be found in the overwhelming majority of local authority children's units. The distinction that I would make is between them and the general sentencing arrangements for young people who serve

detention, training orders, or extended sentences within the prison service. That would be the major difference. The process at Hillside is extremely well connected to local authority provision. For a youngster coming in to Hillside, the assessment will include the relevance of the education plan that that young person was undertaking within their home area. It will include all of the detail of their educational attainment and all of the issues around the maintenance of their education plan, as far as possible, including access to the GCSE curriculum. There is a very strong emphasis on looking at the psychological and psychiatric needs of young people. There is a clear issue around the staffing ratio and there is, above everything else, a regime that, throughout the day, is occupying young people with activities, which we would consider to be generally helpful for the development of that young person. My experience has been that, often, we see youngsters going in there who are extremely vulnerable and who, for a variety of reasons, may not have done very well in the community before they went into secure accommodation but who have been enabled through individual education programmes, individual counselling and key worker schemes to not only deal with the issues of offending behaviour, but to make significant improvement with regard to some of the underlying causal factors of offending, which have meant that we can then progress issues on release.

[49] **Alun Cairns:** With that in mind, I have two supplementary questions. First, if the capacity could be expanded at Hillside, do you think that that would be a good thing? Secondly, should Hillside be reserved for Welsh children only?

[50] **Mr Isles:** I think that the youth justice board recently increased capacity by three places. There are some adjustments to the size of the local-authority commissioned bed arrangements by the youth justice board—capacity in England was reduced by four units.

[51] **Alun Cairns:** But there are pressures on the sector.

[52] **Mr Isles:** That will have an impact on Hillside because, with Welsh kids going through the same placement system as English children at the moment, the demand to fill the beds will be on a day-to-day basis. If there is a pressing demand to place English youngsters in a local authority secure unit because of their vulnerability, they will come to Hillside. So, there is a real impact issue here because, although we have three extra beds at Hillside, they will not be reserved for Welsh young people. As for whether they should be reserved for Welsh young people, if it were possible, I would suggest that they should be. However, I think that we have to go back a bit and remind ourselves that when the youth justice board came into existence, one of the standards that it set for itself with regard to the placement of young people was that they should not be more than 50 miles away from home. Even if we were to increase capacity at Hillside and reserve it purely for Welsh young people, we would still have difficulties, particularly for the north and the west, in relation to Hillside's accessibility to parents and others to visit the young people. The answer has to be more provision, but not necessarily all in one location.

[53] **Mark Isherwood:** What are the key resettlement issues for young offenders from Wales, and how, if at all, does the handling of these young people's needs differ between those held in secure units in England and those held in Wales?

[54] **Mr Isles:** The key issues are dictated by age. Accommodation for young people between 16 and 18 years old is often the major determinant of how successful resettlement is for young people leaving any custodial establishment, regardless of whether it is England or Wales. We are very fortunate to see the impact of measures that you have already taken as an Assembly starting to work through and reducing the reliance on bed and breakfast accommodation, which, in our experience, had been used for people as young as 15 years of age. Seeing that restricted to immediate accommodation for emergency purposes only and with fixed timescales applied has been very helpful, and it has also stimulated other provision

to come on stream. By that action, you have already taken a major step to address some of the underlying issues for those who are over 16.

[55] Access to training places and the full range of education, training and employment opportunities is critically important for young people on leaving custody, as is access to substance misuse services. Many of the young people who enter custody unfortunately have very significant problems with drugs and alcohol. While they are in custody, those issues can be contained, but if those young people return to their habit on release, particularly those who use class-A drugs intravenously, the impact can be significant, and it has led to a number of deaths in Wales. Those are the key issues that really need to be addressed.

[56] On the distinctions between England and Wales, I suggest that in many instances, for those who are leaving local authority secure units, the issues are quite similar across the two areas, because we are looking at youngsters who are under 16 years of age. There is significant reliance on local authorities' social services in the provision of accommodation, and a number of young people in the custody establishments at any one time will be looked after by the local authority. So, continuity in the care plan is crucial for those young people.

[57] Those are the major distinctions, really, between those under 16 and those who are over that age. A major issue, which we have raised in our paper, is to concentrate on making changes for those who are more vulnerable and on the under-16s.

[58] **Kirsty Williams:** In her evidence to the committee, the Minister for Health and Social Services said that mental health advisers are available to each of the youth offending teams. In your view, how effective is the total care package for young offenders who have mental health issues, and how joined up and continuous is service provision between the secure estate and the local community, be that in the context of England or Wales?

1.40 p.m.

[59] **Mr Isles:** I would not wish to contradict the Minister. Some areas have less access to services than others. For some areas, it is an issue of services within the CAMHS arrangements, which are held in common with general provision. It may mean that half a day or a day a week is available to youth offending teams. Some youth offending teams have permanent specialist psychiatric nurses; I am fortunate to have one of those members of staff. When they are placed in YOTs, they make an incredible difference, not just to the issues of acute or chronic need, but also within the prevention agenda. During the 10 years of having the specialists in place in Swansea, we have been able to create a very close working relationship with general CAMHS services and with adult psychiatry, because we are still in a position where the age at which a young person becomes an adult is 16 for most of the young people that we work with.

[60] I recently gave evidence on this issue to another committee. We are very clear that we wish to see that bar raised so that the adult age is 18 for everyone, regardless of educational status. In fact, we would go so far as to say that the most vulnerable young people are discriminated against at the moment by the way in which the CAMHS service is delivered. Some areas, such as Carmarthenshire, have already moved the age at which a young person becomes an adult to 18, so it has been possible for some areas to achieve significant improvement.

[61] Overall, the issues are that we need to be able to link to general CAMHS provision, and we also need access to specific forensic psychiatric services for young people. Those services are beginning to be developed—the ride has been a little bumpy over the last few years—but we know that there is a commitment from the Minister to make sure that that is taken forward, and we will, I hope, work together to make that a reality.

[62] **Joyce Watson:** Good afternoon, Mr Isles. In your paper you highlight the appointment of a dedicated social worker post at HMP Parc as an example of good practice. In what ways has this post helped to improve resettlement and aftercare provision access for Welsh children?

[63] **Mr Isles:** The general improvement that we have seen falls into a number of different pockets. The fact that we have a social worker at HMP Parc means that there is someone who is not a member of prison service staff, which makes a distinct difference—it is someone who the young people know is different, and it is someone who they can access and talk to, possibly in a different way. The social worker is also trained in counselling, which provides a clear example of continuity with the work that many of these young people will have experienced in the community, where many of them will have had access to social workers. The links that that worker has created back to the home area, not just in terms of YOTs but also into children's services and education, have also proved to be significant in extreme cases where we have required determined plans, particularly around accommodation, and frequently involving safeguarding issues.

[64] Overall, this has proved to be a very successful appointment within HMP Parc. It has been mirrored in other areas, particularly in England, where it is common practice, and where the same benefits have been seen. A side benefit is that it has enabled staff from youth offending teams to play a fuller part within HMP Parc, and I should single out the prison for praise in this regard because it is very clear that it considers that increased access by youth offending teams to young people in its care is something that it wishes to pursue. This has opened many doors, as well as the work that is done directly.

[65] **Joyce Watson:** Following on from that, I have some questions about the housing needs of young offenders, which you have just mentioned as a positive. We heard evidence from the Association of Chief Police Officers Cymru that in some areas of Wales custodial remands are higher than the national average for England and Wales. Do you have any evidence to indicate that some young offenders are sentenced to custody because suitable bail alternatives are not available?

[66] **Mr Isles:** That has certainly been, historically, a key issue. You cannot have bail if you do not have an address. If you come to court and your parent says, 'I am not having you back', and informs the magistrates, if there is no-one there who can secure alternative accommodation for a young person, bail is not an option for the court. In a sense, the court's hands are absolutely tied at that point, and that was very clearly an issue that was quite common a number of years ago. I think that it is less common now, because the youth justice board has invested significantly in developing intensive supervision and surveillance programmes.

[67] Again, on the issue about bail support programmes and remand alternatives, it was a slightly bumpy start. The way that the funding was introduced was really in terms of setting up pilot areas, but the outcomes were so glaringly obviously better from the pilot areas that the programme was, effectively, rolled out across the entire youth offending team fraternity. Therefore, every youth offending team in Wales should be providing alternatives to remand, mostly through intensive supervision. Many of them do so in conjunction with local authority provision, notably through family placement schemes or intensive fostering schemes, and the youth justice board is currently advocating a significant increase in the use of intensive fostering schemes as an alternative to remand. My experience is that most young people, given the choice, would want to be at home with their parents and our thrust as Youth Offending Team Managers, Cymru has been to very much look to not substitute one form of custody for another in some respects, because that is how many people see this, but we have been very active in developing the use of bail support packages in the community linked to

electronic tagging. For many young people, that has provided a very realistic alternative to custody.

[68] In my own area, the use of remand to local authority has dropped away to nothing, and remands into custodial establishments for boys in particular have dropped by half. Therefore, I think that we can see that some progress is being made around this. There is some concern about the general size of the remand population. Many of those young people who are remanded do not go on to receive custodial sentences. Therefore, there is an issue in which custody for welfare purposes is really still part of the agenda here.

[69] **Bethan Jenkins:** You have touched on the crux of my question, but I guess that it is important to ask what more do you think that the Welsh Assembly Government could do to provide suitable alternatives to custody and whether housing should be one of the statutory partners in the strategic management of youth offending teams, considering that this is a really important issue in relation to youth justice?

[70] **Mr Isles:** I think that the short answer to that question is 'yes'.

[71] **Bethan Jenkins:** Great.

[72] **Mr Isles:** There are many examples of good practice, and, obviously, there is grant assistance in relation to the whole area of accommodation and young people at present by the Welsh Assembly Government. I believe that that project, looking at three areas, in particular, is due to report back in March 2010. It will seek to identify current best practice in Wales to see whether it can be extended to other areas. The issue here is that we have to work in quite a complex environment when we come to the accommodation of young people. Local authority housing is certainly one of the providers, but registered social landlords are also extremely important. If we can get everyone working together, the issue then becomes one of having the opportunity to identify the most suitable accommodation for young people in the most suitable location. That is usually taken to be in close proximity to parents but sometimes it can be the opposite. We have significant experience, for instance, of parents who are class-A drug users whose impact on their children is entirely negative. Therefore, sometimes, moving young people away from the influence of parents, older siblings or other family members can be important. We have certainly been developing alternatives to bed-and-breakfast accommodation very quickly. So-called ABBA schemes are quickly springing up across Wales, and they embrace social registered landlords and housing authorities. However, I definitely see a need for this in the structure of youth offending team management boards.

1.50 p.m.

[73] **Bethan Jenkins:** My next question is on the devolution of the system. You note in your evidence that there is a policy difference, but any change in legislation would be a political decision. In what ways does the present division of youth justice powers hinder the Welsh Assembly Government in driving forward the policy based on the rights of the child compared with what is happening over the border?

[74] **Mr Isles:** YOT Managers Cymru has no clear view on this; we are rather split. There are threats and opportunities in the whole issue of potential devolution. Much of the work that we do with young people is already a devolved responsibility, but the nature of their offending behaviour and how they are dealt with in the criminal justice system is still led from London. Bringing everything together would give us a clear benefit. However, the primary concerns that my colleagues have expressed relate more to fears about future funding, because we receive significant amounts of money through the youth justice board, and that includes funding from the Department for Children, Schools and Families and the Department of Health in England, which comes through the youth justice board to youth

offending teams. If suitable arrangements were made to ensure that the money side of things was sustained, I think that some people would feel altogether easier about it.

[75] In principle, we are entirely aligned with the principles around extending entitlement and the seven core aims. As YOT managers, we already have specific, individual responsibilities with regard to safeguarding children plan arrangements and for learning and skills issues and 14-19 networks, so we are extremely well connected to many of the issues that can, realistically, affect outcomes for young people.

[76] The other concern held by my colleagues is that if you try to separate youth justice from the rest of the justice system, you may end up with more difficulties than you sought to solve, so it may be that the ambition to have the whole of the youth justice system devolved to Wales is rather more realistic than just part of it being devolved.

[77] **Mark Isherwood:** You will be pleased to know that this is the last question. When we visited Rainsbrook Secure Training Centre last week, we were told by the staff that there was a need for the intensive and supported secure training facilities that it provides for the hardest to reach groups of young people. We met a group of young people from Wales who said that they agreed with you and that they wanted to be closer to home, but that the great advantage that they had found was that, for the first time in their lives, they were given agreed and understood boundaries. We were even told that some of them were not applying for early release because they did not want to go, because the centre had become almost the first family environment they had ever encountered. You say that YOT Managers, Cymru believes that the use of the secure estate for those aged under 16 should be further restricted and that all young people should serve their sentences in local authority secure units within a 50-mile radius of their homes. In the context of what we were told by the young people in Rainsbrook centre last week, what action do Welsh Ministers need to take to deliver the improvements that you have outlined and meet the needs expressed by those young people, and how critical do you feel that those are to the success of the youth justice system in Wales?

[78] **Mr Isles:** The regimes in secure training centres and in local authority secure units are quite close to each other. The same feature is to be found in both with regard to the feeling of security that young people get. I am as familiar as you are with this issue of young people going to these establishments and feeling so comfortable that they do not want to come out. One issue that we have had is that some of the young people come out and offend very quickly, hoping that they can go back. That is extremely sad. The answer to that has to be to have earlier preventative interventions, frankly, in order to ensure that the lowest possible number of young people need to go to such places. Although they may achieve positive outcomes, if we still have all those issues relating to a feeling of a lack of safety, a lack of engagement and a lack of community cohesion, which affect some of those young people on release, we are just giving them a period during which they feel consolidated and comfortable, without taking matters forward to being something that is lasting on release. Making sure that we make those things work is a complex issue. If we look at what we have to do as a community in relation to young people, we really have to ensure that we possibly hug them a little bit more earlier on, making sure that some of the issues that we have to deal with in relation to their offending behaviour are less serious to the public.

[79] Secure training centres are, above all else, places where young people who present a risk to the public end up. Many of them go there and eventually come out and commit further offences that take them into extended detention. That is a pathway that would not necessarily have shone through in your visit to the secure training centre, but it is one that we have seen operating over the years with young people. The number of young people that we are looking at in Wales who need that sort of provision is not great; one unit would be quite sufficient to meet the needs of Wales. At any one time, we have probably somewhere between 12 and 15 young people at that level of seriousness.

[80] **Janice Gregory:** Thank you very much indeed for taking the time to come to committee this afternoon. We will send you a transcript of your evidence. Please check it for factual accuracy. You cannot take out something that you wish you had not said—although some of us wish we could, on occasion—but we would be grateful if you would check it. If you have any queries, please contact the clerking team. Thank you again; your evidence will form a vital part of our inquiry.

[81] I thank Members for being sensitive to the fact that, as we undertake visits, we meet young people, some of whom leave a very lasting impression on us, and it is sometimes easy to slip up and mention names. We need to be focused and ensure that under no circumstances do we identify anyone who we meet on these visits. I thank Members for their sensitivity with regard to that.

[82] It is a pleasure to welcome Andrew Neilson to this meeting of the Communities and Culture Committee. Thank you for the paper that you have submitted to the committee, which Members have had an opportunity to look at. I am happy if you want to make some brief introductory remarks; if not, we will move to questions.

[83] **Mr Neilson:** I think that everything that I would want to say is in the paper.

[84] **Janice Gregory:** Thank you. There will be a series of questions. You will have observed in the waiting room how the committee operates. Members will ask questions; please feel free to make any comments that you want to. The questions will be based on your paper to the committee. The first question will come from Joyce Watson.

[85] **Joyce Watson:** My first question is on children's rights. Given the recent international scrutiny of the youth justice system across the UK by the United Nations Committee on the Rights of the Child and the clear concern about children's rights, what specific concerns do you have about Welsh children in the secure estate, whether they are in England or in Wales?

[86] **Mr Neilson:** Our concerns relate to them specifically when they are in England, because we believe that two of the forms of custody that are used with children are inappropriate in a rights-based setting: secure training centres and young offenders institutions. If children are in England, they are likely to be in those two places, and we think that that is a problem, as young offenders institutions are prisons in all but name; they are adult prisons, except they have children in them. Secure training centres have real problems to do with the use of violence. Restraint is used in secure training centres at record levels. Two children have died in recent years in secure training centres: one 15-year-old was asphyxiated during a restraint incident, and a 14-year-old hanged himself with his own shoelaces after being restrained. So, what is going on in secure training centres is not always obvious from a visit, as you do not know what is going on when you are not there. So, we have serious concerns about that.

2.00 p.m.

[87] Overall, our overarching concern—as the UN committee said—is about the use of custody. The UN convention says that custody should be used as a last resort, and the Government, certainly in Whitehall, claims that it is, but we have very high numbers of children in custody and we do not think that it is being used as a last resort. I should also say that the Howard League for Penal Reform has a legal team, which is part-funded by legal aid and part-funded by the charity. We represent children and young adults in custody, so those aged under 18 and between 18 and 21. We have many clients who are in custody either without its having been used as the last resort, or, more often than not, because of their case

history. They will have had short spells in custody before and you can almost see a sad story developing on two levels. On the social services side, you see intervention at a young age, but not enough. Social services will be aware that there are problems in the home—open drug-taking, abuse, or neglect, for example—and, eventually, the criminal justice system starts to come into play. You will initially see youth offending teams intervening and then short spells of custody for minor offences. No-one is really making the appropriate responses at the right point, which probably is the earliest point.

[88] **Kirsty Williams:** In your paper, you highlight the debate about devolving the youth custodial budgets to local authorities. In your view, what would be the implications for Wales of devolving youth custody budgets to local authorities here?

[89] **Mr Neilson:** It is a slightly different debate from that going on in England. In England, there is no tier of government in between, so you are talking about going directly to the local authorities. I do not think that I have the experience of how the Welsh Assembly Government is working with Welsh local authorities to say that the same problems that we flagged up in the paper in relation to England are or are not necessarily the case here.

[90] We are slightly sceptical about simply devolving funding to local authorities. We think that there are perverse financial incentives, which we highlight in the paper. We feel that there are issues when local authorities do not pay, as they are not on the books when the kids are in prison. So, there are issues, which I hope our paper sketched out. There are some other problems. It is a complex issue. I do not think that just looking at the money will provide that magic-bullet solution that we would all like to see, but we would like it to be looked at. As ever, what you tend to find with funding and complicated funding with different agencies is that, even when it happens, your aspiration does not get delivered. For example, I heard Eddie talking earlier about social workers in young offending institutions. The funding for those posts is currently the subject of a squabble between the Department for Children, Schools and Families and the local authorities. The local authorities are meant to take on the funding but some are saying that they cannot afford to do so. The Whitehall department is saying that the funding that it provides will stop this year. I do not know what the situation is with YOI Parc—that is, I know that it has a social worker in post, but I do not know what the funding situation will be—but there are many posts with the youth offending institutions in England lying vacant, because social workers do not want to take the job if they do not know whether the funding for it will continue.

[91] **Joyce Watson:** I want to continue with the theme of devolution, but this time ask about the devolution of youth justice policy to Wales, which you suggest in your paper. You said that it should achieve positive outcomes for Welsh children. What might be the benefits of devolving responsibility for the secure estate to Wales? To what extent could improvements be made effectively under the current arrangements?

[92] I would also like to ask another question—and I know that I am asking three questions all at once—about the statement made by the Minister for Health and Social Services, Edwina Hart. Do you welcome the statement that she made in this committee that she will commission research by Professor Rod Morgan to look at the devolution of the youth criminal justice system in Wales?

[93] **Mr Neilson:** Will Rod Morgan be looking only at the youth justice system?

[94] **Joyce Watson:** Yes.

[95] **Mr Neilson:** As we said in our written evidence, one of our main reasons for supporting the devolution of the youth justice system to the Welsh Assembly Government is because a rights-based agenda is being delivered for children in Wales, which is considerably

more advanced than the agenda delivered by Whitehall. The opportunity to devolve policy and therefore to have some say in where children are placed would be of immediate benefit, one would hope, and would also come with a budget that could be spent on what the Welsh Assembly Government thought was the best way of approaching the problem. A lot of money is currently spent on custody. That money could be used for early intervention and community programmes, but it is currently locked in these prisons. That is a big problem in England and is still the subject of debate for the English, but there has been movement here and you are implementing a rights-based agenda. However, there is a limit to what you can do to help the children who perhaps need it the most.

[96] **David Lloyd:** I have a question on the same theme. It is not that we are obsessed with devolution or Wales in any way, but you do remark on it in your excellent paper. [*Laughter.*] On new youth justice policy in Wales emerging and leading throughout the UK, as you mentioned in passing, what might be the key features of a distinctly Welsh approach to youth justice? You mentioned the rights-based approach, so could you build on that? In which areas of youth justice policy might the Welsh Assembly Government usefully seek legislative competence to improve outcomes for Welsh children in the secure estate? As you mentioned, we do not have control over that.

[97] **Mr Neilson:** You have a problem in that, when you consider the problem of youth crime, as policy makers, there are two levers that you can pull and push. One is on the social welfare side, which is the most important because most children who commit crimes, particularly those who commit such serious crimes that they end up in custody, are very likely to be children in need. The legal records of the children whom we represent show that they have pretty horrific backgrounds. Agencies fail to pick up on that and to intervene at the appropriate moment, which is the earliest moment, but I will come back to that later.

[98] The other lever is the criminal justice system, which has a role but is a blunt tool. It cannot tackle the underlying causes of crime, which develop from social problems. Nevertheless, it is a tool to tackle the problem of youth crime and it seems somewhat perverse that the Assembly has one tool but not the other. So, you can operate only one lever. In that sense, to go back to the issue of finances, once you have both levers, you can choose how much money goes into one and how much goes into the other. I would argue that the Whitehall approach is being adopted at the moment: too much money is spent on criminal justice and an insufficient amount is spent on welfare.

[99] We are enthusiastic about this because, last week, we published a report on the whole-prisons system by an independent commission that we set up called the Commission on English Prisons Today. It considered the crisis of adult overcrowding in English prisons, which has been a problem in prisons since 1992. The commissioners started to consider other examples abroad. When they went to Scotland, they saw how things were being done differently there. Criminal justice policy is devolved to Scotland and that is distinct from the point of its having a separate legal system. In my view, that is one reason why criminal justice policy was devolved to Scotland. Another reason, speaking as a Scot, is that it was very hungry for devolution in 1997 and got everything that it wanted. On youth justice, Scotland has been doing things differently for 40 years.

2.10 p.m.

[100] It has the children's hearing system, which means that children under the age of 16 do not encounter the criminal justice system at all unless they are charged with very extraordinary crimes. Generally, it is seen entirely as a welfare problem: why is this child getting into trouble? What is the issue? What can we do to stop this rather than punish the child? As we have found, and we know from the re-offending rates, punishment does not do anything but exacerbate the problem, by and large.

[101] **David Lloyd:** That was an excellent answer.

[102] **Bethan Jenkins:** I just wanted to follow up on that quickly. We heard from Eddie Isles earlier that there was a divergence of opinion in the youth offending team. He also hinted that the whole of the criminal justice system would need to be devolved for us to do it correctly or more efficiently. Do you concur with that opinion, or do you think that this could be devolved separately to the entire criminal justice system?

[103] **Mr Neilson:** I think that there is logic to the whole system being devolved, not least now because Northern Ireland is getting it. So, Wales is very much the poor relation in the UK on this. You have to understand that the youth offending teams do great work, but they are the creations of the Government that came in in 1997, so they were a key part of New Labour's youth justice reforms. The reason why there will always be divided opinions among the youth offending teams is that any change from the 1997 set-up makes them slightly antsy about their existence and their continuing existence, not least because they are very expensive. The youth justice system has become very expensive. A lot of money is poured into it, and increasingly so since 1997, by the Government in Whitehall. Unfortunately, because it has come at it with primarily a punitive attitude, or at least the desire to be seen as punitive by the press, a lot of that money has been wasted. Given the expansion of the budgets in youth justice, you would expect to see a substantial fall in re-offending rates and that has not happened. Indeed, under-18s are currently the group that reoffend at the highest rate—three quarters.

[104] **Bethan Jenkins:** Thank you for that. I just want to go on quickly to what the Children's Commissioner for Wales said in his evidence. He concentrated on the fact that there should be less strategic work in Wales and more consideration of how a good-quality experience is delivered for children in the secure estate. Do you have a response to what the children's commissioner is saying? Do you think that there is too much concentration on the strategy, to the detriment of its implementation?

[105] **Mr Neilson:** The problem is that the strategy is there, and it is an admirable strategy, but, as we said as well, the problem with the implementation, certainly across the border, is that it is happening out of sight of the Assembly and it is very difficult to sort out these problems. It is difficult for the Whitehall Government because what goes on in these institutions is often very much not known to the Minister at Whitehall. At least once you have the values in place, you can move on from that, and that is an important point. We would see an advantage to devolving youth justice policy on the basis that the Welsh Assembly Government is very much saying, 'These are our children and we want them here'.

[106] The key concern that I have about this, though, which I mentioned in the paper—and I know that this also happens with adults in Wales because the Howard League for Penal Reform gets asked to do radio interviews on it all the time—is that you should not get stuck on the idea that Welsh prisoners are not in Wales and therefore more Welsh prisons are needed. There is definitely an argument for a secure children's home in north Wales, and that is very clear, but I do not think that there is an argument for much more expansion. Indeed, I would argue that you should close YOI Parc, which is an inappropriate place for children to be held, and use some of that funding to fund the new secure children's home and alternative programmes.

[107] You can always change things. On secure children's homes, one of the arguments against just housing children in such homes is that they would be inappropriate for the older kids—the 16 and 17-year-olds. However, you could redesign them so that there is some kind of partitioning. There is no reason why one just has to settle for what one has got. The problem with prisons is that they often make us prisoners in our thinking about what we can

and cannot do. They play a very important role, but they are not the only thing that we can do.

[108] **Mark Isherwood:** You commented earlier on punishment versus tackling the causes of crime, and I am just summarising what you were saying. To what extent do you think that power relationships have a role to play, given what young people told us on our visit to Rainsbrook? We asked them what the greatest gain or benefit of being placed there was, as they saw it, and they said ‘agreed and understood boundaries’.

[109] **Mr Neilson:** That is an important point. I will not deny it. I did some work with one of our clients in the media, and she was at a secure training centre. She, too, had a positive experience. She was a very strong person to start with, though, and I think that there was a lot in her that was latent that just needed to be discovered. I am not sure that it was actually the secure training centre—or rather, I am not sure that it could not have been done differently. This comes back to my point about being wary of being prisoners in our thinking about prisons. You will get people who have good and positive experiences there, because one thing that prisons do is to set boundaries. However, for every child that has that experience, I will wager that you would find three, four or five who have reacted badly to it. That does not mean that they should not have boundaries set, but there are other ways of doing that. Some kids find it easier on the intensive fostering programme, which was mentioned earlier, in which a family setting or a quasi-family setting is used. Some children react badly to authority, because they always have, and authority has treated them pretty badly back. So, when they go into a secure training centre, the relationship just never works. I cannot deny that some children will benefit from it, however.

[110] It is an indictment of the system that it takes Welsh children being sent to an English secure training centre before they can talk to Assembly Members and tell them that they now have some boundaries set for them. That should not have to be. I am pleased, however, that those children feel that they are getting back on track, because that is what we want to see.

[111] **Mark Isherwood:** Another thing that they emphasised was the rewards system that they had in place, but I will not go down that road at the moment.

[112] Back to the script. What do you believe are the current weaknesses in the provision of resettlement services, particularly in relation to young offenders’ and ex-young offenders’ mental health and accommodation needs?

[113] **Mr Neilson:** I will start by welcoming the fact that the Assembly has had an impact on reducing the use of bed-and-breakfast accommodation, because that is one of the central problems that we encounter. Our legal team was set up in 2002, post a judgment that led to the setting up of social worker posts in young offender institutions. We set up the legal team very much thinking that it would be all about prison and what happens there, and that it would be about challenging the authorities for putting a child in solitary confinement or restraining a child, or whatever. In fact, the majority of our cases are to do with resettlement and what happens when children leave. In fact, it is not the prisons that we are taking to court; it is the local authorities. We briefly outlined the problem in our paper, which is that some local authorities will treat these children, 16 and 17-year-olds specifically, as homeless rather than as children. There is a complex legal thing going on, but it is basically all to do with the spells during which they might have been in care or not and to what extent that triggers certain entitlements. Local authorities are often very good at getting out of meeting those entitlements.

[114] Our experience with Welsh local authorities is pretty good. We had a landmark case against Caerphilly, to which we referred, but that is a while back now. The lead that the Assembly is taking, for example, on reducing the use of bed-and-breakfast accommodation is one of the ways in which that message filters down to local authorities.

[115] Mental health is a major problem. The other case to which we referred in our paper, which actually received judgment at the end of last week, was reported on in the *South Wales Argus* this week. Sadly, we have been pushing for an inquiry into the case of this young man from Newport who ended up in England. The Welsh trust did not want him, and that was one of the problems that we faced when we were trying to get him out of Feltham, where he was engaging in horrific self-harming. It was clear that it was just wrong that he should be in prison. He needed to be at a mental health medium secure unit, but there was a tug-of-war between the English trust, where he had committed the offence and where he ended up being sentenced, and his home trust. So, there is definitely a lack of provision in Wales, and that is a concern. When we eventually managed to get him removed, by court order, from Feltham, he was put in an English unit, because that was the only option for him.

2.20 p.m.

[116] To clarify, the case last week was to push for a public inquiry into his treatment, which was refused, but we are thinking of taking it to the House of Lords, because we think that it flags up many salient issues to do with the way in which young people are treated when they have mental health problems. Their problems may not be picked up sufficiently by social services, but they suddenly come to the attention of the criminal justice system, and we are on them like a ton of bricks.

[117] **Joyce Watson:** Are local authorities and local partnerships meeting their duties and responsibilities over resettlement, because you said that most cases with which you become involved are about resettlement? What further action should the Welsh Assembly Government and the youth justice board take to encourage local authorities and local partnerships to exercise leadership?

[118] **Mr Neilson:** There was recently a relevant judgment on this—although it did not come from the Howard League—namely *R (on the application of G) v. the Southwark London Borough Council*. I believe that that will lead to more guidance being issued by the Department for Children, Schools and Families, so I hope that the Welsh Assembly Government is clued into that and is taking account of it. Our experience is that Welsh local authorities have improved, but, more generally, it is a very patchy picture. Sometimes, local authorities will say that a child should clearly not be treated as homeless and put in a hostel where there is open drug-taking—the kind of scenario where you could imagine that they will reoffend—and sometimes local authorities will say ‘No, no, this person should not get anything from us’. It is often quite difficult to understand the logic of the decisions.

[119] Ultimately, it comes down to finances. There is pressure on the professionals on the ground, from the management above, to be careful of opening the floodgates, so to speak, which causes problems. As I said, there has been circular guidance, and the Department for Children, Schools and Families has an aspiration about the way in which local authorities should behave. I think that local authorities could do more; as a legal department within the charity, one of our worries is that we are almost policing or regulating the way in which local authorities deal with these young people, and we are a charity—it seems a bit strange that we are doing it. We wonder whether there are ways in which central Government and the Welsh Assembly Government could be more direct in the way that they enforce what local authorities should be doing.

[120] **Joyce Watson:** In listening to that response, I was reminded of a local authority—I am sure that it is not the only one—that has a very clear policy that, if anyone is or has been a drug user, it will not accommodate them. We all know from this inquiry that that is very often the case with people exiting the criminal justice system. What are your views on that policy?

[121] **Mr Neilson:** If the local authority said that it would also not accommodate under 18s, that is something that we would challenge if we could find a child who was leaving custody and being rejected on that basis. However, I do not want to comment too much on the specifics without knowing a bit more. The people who come to local authorities requiring accommodation have other problems—that is why they require accommodation. The idea that a local authority says ‘If you have problem A and problem B, we will not give you accommodation’, is quite cynical. Again, it is about reducing the numbers and the demand for the services.

[122] **Kirsty Williams:** In your paper and in your oral evidence, you have been very clear about your opinion of the provision at Parc prison, and how you see that removing that provision and investing in other services would be of benefit. Given that scenario, would we, by investing in other areas, be able to provide a service that would better meet the needs not just of children in Wales, geographically, because of a lack of provision in north Wales, but also of specific groups, such as young people from the black minority ethnic community, disabled children or girls who are pregnant at the time of offending?

[123] **Mr Neilson:** Absolutely. The problem with Parc prison is that it is a privately run prison on a contract, but there is youth justice board funding that could be freed up. The youth justice board commissions the places in Parc prison. If it stopped commissioning places, that funding would be freed up, and, if criminal justice policy were devolved, it would go to the Welsh Assembly Government to spend as it wished. You could then spend that money on what you can. More generally, in terms of thinking about how we deal with crime, particularly youth crime, as that is what I am talking about today, we need to be a little more imaginative about how we spend money. There are other ways, other than just specific community programmes that deal with a specific group of people—although I absolutely think that that is very important—that I think that the Government as a whole needs to think about in relation to how it tackles the problem of crime.

[124] Last week, our prison commission was looking at something called justice reinvestment, which is an American concept. In America, the authorities deal with so many people that some states actually cannot balance their budgets. Therefore, in certain states, there has very much been cross-party support for finding ways of reducing the prison population. This movement has grown in popularity because it looks at what is called ‘million dollar blocks’. Experts map where people who are in prison come from. They find that, in certain areas, there are blocks where \$1 million is spent each year on incarcerating its inhabitants. That is what justice reinvestment is about: it is about asking ‘What could we spend that \$1 million on differently that might actually help the block and, if we help the block, will we see a reduction in crime?’ That becomes not just about community programmes as part of community sentences, but you will also find a coalition between the private, public and voluntary sectors; they will be given some funding, because they close a prison, and they will look, in a very holistic way, at what can be done for the area. It could be about public spaces, education and employment or health—all manner of things that have nothing to do with criminal justice. We need to think beyond the criminal justice system for more solutions to these problems.

[125] **David Lloyd:** We are doing a committee report and trying to draw together, hopefully, some coherent recommendations, so in terms of managing those under 18 years of age—for the want of a better phrase—who have somehow offended, you would be in favour basically, of the concept of secure children’s homes as the fundamental model of—

[126] **Mr Neilson:** Of custody?

[127] **David Lloyd:** Yes.

[128] **Mr Neilson:** We would say that you should have reduced the numbers of Welsh children who are currently in custody substantially. Those who are serious and violent offenders would require custody and that would be a secure-children's-home-type setting. You already have that in Neath. As I say, if you were developing one in north Wales, you would not just copy the provision. You could say 'We want to close Parc prison, so that 16 and 17-year-olds might be mixed. How do we do that with younger children?'. Hopefully, there will not be very many of the younger children if you are reducing the population, but I suppose that you would look at the way of designing it. It can be done. I conducted a review of the youth justice system in Jersey last year. Jersey deals with very few children and it had a problem of having a facility where they had children of different ages, but they found ways around it. There are always ways around things. The important thing is to be imaginative and not to feel tied to the status quo, as much as possible.

[129] **David Lloyd:** Some of us have been to Hillside in Neath. It is a very impressive facility. I will leave it there, Chair.

[130] **Mark Isherwood:** What confidence do you have in the safeguarding children measures currently in place in secure establishments housing Welsh children?

2.30 p.m.

[131] **Mr Neilson:** We certainly have concerns relating to the secure training centres and the young offenders institutions, because of the rate of restraint and the way that it is used. The secure training centres have been very well publicised, certainly in England, as they are all in England. I do not have the figures with me, but if you look at annual restraint incidence per year across the different types of institution, you will see that secure training centres are on a par with, if not above, young offender institutions. Young offender institutions house hundreds of children; secure training centres will have at most about 40 or 50. How is that the case? There was an independent Whitehall review of the use of restraint because of the deaths that I mentioned earlier, and there is a lot of concern about why violence is used so much in secure training centres. So, that is a safeguarding issue for us.

[132] Similarly, in young offender institutions, although it is lower than in secure training centres, the per-person rate of restraint usage is on the rise. We are concerned that, perhaps because there is a lot of focus on what is going on in secure training centres, focus is slipping away from the young offender institutions.

[133] Our other concern is on the use of segregation. When children misbehave in young offender institutions, there is a chance that they will be put into solitary confinement, and we have found that that is often wholly inappropriate. We are holding an inquiry into the treatment of an English girl who had severe mental health problems and was in prison. The staff's response to those problems was to put her in solitary confinement. So, they were saying, 'You've behaved badly; we will punish you'. She had severe mental health problems and was self-harming with blades. Once she was in solitary confinement, she self-harmed even more and was even more distressed, as one might imagine, because if you have a mental health problem, staring at four walls and being told that you are a bad girl is not going to make you any better. That was another client that we managed to get removed from prison, by court order, into a mental health setting. Unfortunately, you have to be a pretty extreme case, not necessarily in terms of your mental health problems but in terms of how much you scream, so to speak, in that setting, for us to be able to get you transferred. We know of many kids with real problems, but they are manageable and, as long as they are manageable, they stay in prison, and they will go to solitary confinement for weeks at a time, and it is inappropriate. Daniel Sonnex, who was one of the torturers and murderers of the two French students, was in prison for over five years, and we encountered him during that time. He was complaining at the time because he was in solitary confinement for most of the time, and for

weeks at a time, and he felt that he was going mad. The doctor felt that he needed more help, but he was not getting it. The authorities' response was just to keep putting him in solitary confinement. Look what he ended up doing when he came out. As a state, we had him from a young age for five years—we had control of his life for five years, and we did not do very well with it. There are many young people out there who will not come out safer people. That is why we complain.

[134] **Mark Isherwood:** You talk about secure training centres in that sense, generically, but are some better than others? When we were in Rainsbrook institution, I asked a question about this.

[135] **Mr Nielson:** There are only four. I believe that Rainsbrook is one of the better ones. There have been major concerns around one, namely Oakhill Secure Training Centre, and the YJB took special measures and reduced the population of the centre for a period because the management could not cope with the kids. That secure training centre is now back running at full operational capacity.

[136] One of the reasons why we oppose secure training centres is that they are privately run. There are a variety of reasons why the Howard League for Penal Reform opposes privately run prisons. One is the introduction of the profit motive. In America, we have seen prison populations increase, partly because it is in companies' interests to see those populations increase. Lobbying is very powerful. The state of California has gone bust, and one of the reasons is that it has a huge prison population. Schwarzenegger came in on a ticket to reduce it and was defeated by a lobbying coalition of the private companies running prisons and the prison officers union, which had shares in the private companies, and look at California now. We are slowly going down the same road.

[137] The other problem with the privately run institutions is that they bind you, as a government. For example, with private finance initiatives you are bound by contracts that are of at least 25 years' duration. To explain why I am talking about this, Oakhill Secure Training Centre was running at half capacity, and then came up to full capacity. At the same time, the youth justice board was looking at closing down some places that it did not require. The age of certain parts of the youth justice population had lowered, although the age of the overall population was more or less the same. So, when the YJB started to think about what it could close, it could not close the young offenders institutions, because they are big and it would need to close hundreds of places to justify doing so. It could not close any secure training centres, because those are on private contracts, and it cannot do anything with them until 20—whatever. So, it has just announced that it will be closing some of the secure children's homes. There were 30 secure children's homes only eight or nine years ago; there are now 12, and the number is reducing very fast, because they are the vulnerable part of the system. Whenever one thinks about introducing new things into the system, one has to be careful and think about the repercussions, and about the decisions people will have to make three, five, or 10 years down the line. The introduction of private contracts has tied people's hands, both in youth justice and adult prisons.

[138] **Janice Gregory:** Thank you. Is that okay, Mark?

[139] **Mark Isherwood:** As Alun has had to leave, I will ask his final question. I had a question on the outcome measures that determine the route that you follow, but there you are. This question relates to comments by the children's commissioner about advocacy services for young people. How important do you consider advocacy services for children in the secure estate and when planning for release? Separately, but on a related matter, how effective are children's complaints procedures in these institutions? Finally, do you feel that, from your experience, the statutory powers that are available to the Children's Commissioner for Wales in these areas are sufficient, or should they be increased?

[140] **Mr Neilson:** I would happily go along with whatever the Children’s Commissioner for Wales is saying with regard to his powers. I have met him and I believe that he is a very good individual who is doing very good things. If he has said that he needs more powers, I am happy to go along with that.

[141] On the complaints issue and on advocacy, I cannot speak about Wales specifically, but from a generic England-and-Wales perspective, we have some concerns about the advocacy services, because when you read the reports they never mention—or when I have read them, they have not mentioned—some of the problems that we encounter all the time, such as restraint and the use of segregation. It all seems to be about the quality of food and whether Bobby got a pillow. I do not know what the reason for that is; I worry that the reason is that those reports are by charities that are contracted by the youth justice board to deliver that service. To what extent can they really criticise when there is a risk of the contract being terminated? Having said that, I am not sure what the answer would be. There seems to be some obfuscation going on, and that is a worry.

[142] **Joyce Watson:** Do you think that a wholly independent advocacy service might go some way towards helping? Is it possible to have such a body?

[143] **Mr Neilson:** Yes. That would improve things. I am not sure how keen the authorities would be to have something that was wholly independent. It is also a question of who watches the watchers. At some point, there needs to be some responsibility that is a step back. One way to improve the advocacy service, if there is indeed the problem that I think there is, is having a clear message from the Government saying, ‘We want you to tell us about all the problems. Do not be frightened of telling us that there is such-and-such an issue at such-and-such an institution.’ However, individual advocates I have spoken to have said that they do not always feel that they can raise issues in the way that they would like.

2.40 p.m.

[144] **Janice Gregory:** Thank you very much indeed, Andrew, for your attendance here this afternoon. I am sure that you heard what I said to Eddie Isles about the transcript and the fact that you cannot take out something that you wish you had not said, but I am sure that there is nothing that you wish you had not said. Once again, thank you very much for attending this afternoon. I thank Members for attending and thank Kirsty for substituting for Eleanor.

[145] **Kirsty Williams:** It has been fascinating.

[146] **Janice Gregory:** You have been fascinated, so you will want to come back. I thank you all for your work throughout the term. The next meeting of the Communities and Culture Committee will be on 23 September. We will continue to take evidence on the youth justice inquiry. There are also ongoing visits, and I thank you all for taking the time to undertake these visits. For some, it means travelling long distances, but when you get there it is harrowing to see the youngsters and their circumstances. However, it is informative. Thank you all very much indeed. I declare the meeting closed.

*Daeth y cyfarfod i ben am 2.41 p.m.
The meeting ended at 2.41 p.m.*