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Response to	The Taylor Review of the Youth Justice System in England and Wales
Link to report	www.gov.uk/government/uploads/system/uploads/attachment_data/file/576383/youth-justice-review-final-report.pdf

The Magistrates' Association (MA) welcomes the publication of the [Taylor Review of Youth Justice](#), which provides a comprehensive discussion of the current youth justice system and makes a number of key recommendations for reform. The MA particularly welcomes the recognition of the skills and experience of youth magistrates, and notes the recommendation that they play a more active role in designing tailored plans, increasing the role of youth magistrates in scrutiny and oversight of the sentences given to children and young people who offend.

Further to the MA's initial welcoming of the report, the Youth Court Committee have produced the following more detailed response with regards to a number of the recommendations. The MA do not comment on what should or should not be law, but make the following observations in accordance with our Royal Charter and our role in promoting the interests of justice.

The MA looks forward to working with the government and other bodies, agencies and organisations to integrate the Taylor Review's principles into magistrates' practice.

Chapter 2 - A more devolved youth justice system

Mental health support for children who are at risk

The MA recognises that young people who come before the courts may have a range of complex mental health needs and that the youth justice system should work to address these underlying issues as part of a rehabilitation process that reduces reoffending. Additional investment and increased access to specialist support are key to ensure that young people in contact with the justice system have access to full mental health support.

Removal of the requirement for a youth offending team

Removal of requirement for annual justice plans

The MA recognises the fundamental role that Youth Offending Teams have played in reducing both the number of first time entrants into the youth justice system and the number of young people in the secure estate.

The MA appreciates that holistic, multi-agency working is essential to ensure that the wide range of complex needs with which young offenders can present are addressed – as is local knowledge and reflecting local practices and activities. The MA are aware of the duties regarding the welfare of young people which fall within the remit of local authorities, and would have concerns regarding any loss of the specific statutory duty owed to young people in the criminal justice system. Liaison with relevant

agencies is key, particularly where the local authority have devolved their duties with regards to vulnerable young people, and the current model ensures that one independent agency has overall duty of care for this vulnerable cohort.

Magistrates would need to be fully informed of the structures under which each local authority operates, insofar as it impacts on sentencing options and rehabilitation for young people within that area.

Whilst local authorities have responsibility for many of the agencies with a duty of care to young people in the criminal justice system, the MA note that agencies such as the police do not fall under this remit. This highlights the benefit of a Youth Offending Team which sits above these agencies with overarching duties, feeding into the Youth Justice Board - especially where young people have crossed geographical boundaries. This also allows for an independent framework for accountability. Any change to such a system, including the removal of an annual justice plan, would need to introduce a similarly and sufficiently robust system.

Funding for youth justice services and removal of ring-fenced funding

Careful discussion of the need for impartiality and guiding principles would be needed to facilitate any structure whereby all power is vested within the local authority or Police and Crime Commissioner, rather than being centralised. Whilst flexibility to respond to local need is appropriate, and indeed already exists to some extent under the Youth Justice Service, there would need to be general principles for consistency of process and treatment. The MA also note concerns that about the impact on governance and compliance, and issues around operational functions and the potential for these to be lost in an increasingly devolved system. The MA emphasises the importance of oversight and scrutiny in these areas.

Use of own assessment systems

The current system lends itself to the availability of detailed data, allowing for positive improvements within the youth justice system. Robust accountability relies on such data being available, and the use of prescribed systems ensures that the same data is collected and reported across different bodies and agencies. Equally, the use of the same assessment system ensures there are no issues of incompatibility between different systems, allowing appropriate “link up” between different bodies (i.e. a Youth Offending Team and the police).

This facilitates meaningful comparison across areas, particularly within metropolitan regions. Again, this links to the need for accountability, both in terms of independent oversight to assess performance but also the need to ensure that institutional lessons are learnt across boundaries, avoiding situations whereby a failing in one area does not then lead to national learning.

Ofsted / Estyn inspections for local authority youth offending services

The MA are conscious of the need for sentencer confidence with regards to this area. Whilst we would welcome the educational elements of such a service being inspected by Ofsted / Estyn, we would highlight the need for the other aspects of the service which pertain to detention and rehabilitation to be inspected by those with sufficient knowledge, expertise and experience in that area.

Chapter 3 – Coming into contact with the youth justice system

Jointly operated diversion schemes for children who offend

The MA absolutely supports the diversion of young people from the justice system - or out of custody into supervision - at the earliest opportunity. The MA recognises that many areas already operate successful diversion schemes, but appreciate that there is likely to be differing practice across England and Wales. A shared set of principles can assist in creating consistency and ensuring equal treatment of young people who come into contact with the criminal justice system regardless of their location. Again, the MA recognises the importance of multi-agency working to this end. As mentioned previously, such a system works best where one body or agency retains the overall statutory duty to the young person.

Where a child is diverted on their first interaction with the police, the MA notes the impact this may have on the ability to scrutinise the decision making process. The MA are supportive of the use of scrutiny panels set up to oversee police activities regarding out of court disposals, and notes that other diversionary activities involving young people could come under similar frameworks.

Mandatory national standards for appropriate adult schemes, against which inspections should be conducted

The MA would recommend a requirement that, where an appropriate adult is deemed necessary to ensure the young person is able to participate in an interview, that the court is made aware of this decision (if court proceedings do indeed follow). This information is helpful in informing decisions concerning intermediaries and the like for use in court proceedings.

Local protocols for taking account of health screening assessments and any other relevant information

Whilst the MA would not comment on such a recommendation itself, the MA is hopeful that mental health will be included in such a health screening, should such steps be taken. The MA would also point to the need for an assessment on brain injuries and maturity.

Training of care home staff in resolving minor incidents

Joint working to ensure police officers are able to apply their full discretion in responding to incidents and offences in children's homes

Presumption of no formal criminal justice action being taken unless it is so serious that this is absolutely necessary

The MA points to that outlined in the Crown Prosecution Service 10-point checklist on charging young people following incidents in Children's Homes. It is essential that those making charging decisions adhere to this guidance. The checklist can be accessed here: https://www.westyorkshire-pcc.gov.uk/media/86778/looked_after_children_10_point_plan.pdf.

Distinct approach to how childhood offending is treated by the criminal records system

The MA supports the need for a clear, fair and proportionate criminal record system for children under 18, about which magistrates are fully informed.

Youth magistrates are well aware of the impact criminal records can have on a young person's future, certainly in terms of employment but also in relation to education, training, travel and housing - each of these playing a key role in the reduction of reoffending. It is essential for all sentencers to understand the implications of different sentences on criminal records, including Out of Court Disposals. The youth justice system's principle aim is to rehabilitate young people, and the provisions surrounding young people's criminal records and their disclosure should reflect this aim, ensuring that young people are able to reintegrate successfully into society whilst recognising the need for public safety guidelines.

Youth magistrates are aware of the complexities of a child's cognitive development, which can vary significantly, and the impact this has on their behaviour. Many children who come before the court are in the initial stages of developing their consequential thinking skills, and factors such as emotional and social development can be a significant inhibitor to exercising such skills. This goes to the proportionality of criminal records, which should reflect these challenges and the ability for children to develop such skills further and move on from previous offending behaviour.

Chapter 4 – Children in court

Judicial prioritisation of cases involving children

The MA supports this recommendation, and is more than happy to assist in any discussions surrounding this going forward.

The MA note that ongoing court closures may have a negative impact on ensuring adequate space and/or an appropriate venue for young people going before the court.

Court summons and parental attendance

The law is clear that a young person's primary carer should attend court and the MA agree that this is vital.

Review of the fee structure of cases heard in the Youth Court and mandatory training for all lawyers appearing in the Youth Court

The MA has always supported ticketing for youth court advocates, not only for court advocacy but for police interviews. The MA notes the need for the fee structure for cases heard in the Youth Court to reflect the particular skills, experience and expertise required.

Presumption that all cases involving children should be heard in the Youth Court, with suitably qualified judges being brought in to oversee the most complex or serious cases in suitably modified proceedings

The MA would invite further information about the structure and processes relating to this recommendation, particularly with regards to juries.

The MA would also encourage further discussion around whether the Youth Court is always the most appropriate venue for a young person's case to be heard depending on the severity and nature of the case. The MA note the need to consider victims and access to special measures – availability of appropriate facilities can vary considerably, and may not be available in the specific room allocated to the Youth Court within a courthouse.

However, the MA would support the presumption that the Youth Court will always be the most appropriate venue, whilst retaining the need for an assessment on a case-by-case basis to ensure flexibility.

Law on youth reporting restrictions

The MA would encourage a full review of the current system before a new system is introduced.

New system of Children's Panels

The MA support the concept of ongoing review of community sentences by judicial office holders, and have been involved in discussion around how this might work in the context of problem solving courts. The MA have, however, identified issues concerning the implementation of the proposed Children's Panels in practice.

The MA would encourage in-depth research, evaluation and piloting around such fundamental changes to the youth justice system.

Removal or substantial restriction of the availability of short custodial sentences

Parliament have currently set the minimum custodial sentence for young people at four months, and it would be for Parliament to debate and implement change as they see fit.

Children aged under 16 only given a Plan with a custodial element in exceptional circumstances

Magistrates are already aware that custodial sentences are a recourse of last resort and should only be imposed in exceptional circumstances. It is unclear how this proposal would change the current framework.

If Parliament chose to change the law surrounding the length of custodial sentences, this would be closely adhered to by youth magistrates. The Sentencing Council would be charged with reviewing any unintended consequences of such a change, including escalation.

Custody to be used only as a last resort

The *Sentencing Youths - Overarching Principles* guidelines, which are followed by magistrates sitting in the youth court, make clear that a custodial sentence must be imposed only as a measure of last resort, under both domestic law and international convention.

Chapter 5 – Secure Schools

Only children who are looked after retain this status when in custody

It is essential for any young person in the youth justice system to have a recognisable public status. If the court system has removed the young person from their family, the young person, who is vulnerable, must be afforded public protection.

It is important that there is a clear framework in relation to duty of care responsibilities. Any move from a statutory duty of care system without a clearly defined and equally robust replacement would be of concern to the MA.

Chapter 6 – The role of central government

Creation of Office of the Youth Justice Commissioner to replace the Youth Justice Board

The MA recognises the many achievements of the Youth Justice Board. The appropriateness and success of any new commission will turn on the structure, resources and expertise it is equipped with, and the MA would seek further clarity on how such a commission will operate and the delegation of statutory duties.

The MA has built a robust working relationship with the YJB, and has worked with them on a wide range of issues. It is essential that sentencers have an open and consultative relationship with any replacing office.

Creation of new expert committee

If a new committee were proposed, a clear distinction would be needed between the roles and responsibilities of each relevant body and advisory group, with a detailed understanding of who was providing expert advice.