

Howard League for Penal Reform's submission to the consultation on the draft national standards for youth justice

26 November 2018

Summary

1. The proposed revised National Standards are a missed opportunity to make positive changes and are regressive as they water down current standards
2. The ethos of the revised National Standards is welcomed but it is unclear how the proposed standards will support practitioners to achieve it.
3. The revised National Standards will not encourage the provision of quality services and do not take the opportunity to remove the scaled approach, despite the lack of any evidence that the scaled approach assists in achieving the objectives of the criminal justice system for children.
4. The removal of timescales, particularly for resettlement plans to be in place for children leaving prison, will make it hard to hold statutory agencies to account.
5. The revised National Standards say that they are outcomes focused but no outcomes are specified in the draft document.

1. About the Howard League for Penal Reform

- 1.1 Founded in 1866, the Howard League is the oldest penal reform charity in the world. The Howard League has some 13,000 members, including prisoners and their families, lawyers, criminal justice professionals and academics. The Howard League has consultative status with both the United Nations and the Council of Europe. It is an independent charity and accepts no grant funding from the UK government.
- 1.2 The Howard League works for less crime, safer communities and fewer people in prison. We achieve these objectives through conducting and commissioning research and investigations aimed at revealing underlying problems and discovering new solutions to issues of public concern. The Howard League's objectives and principles underlie and inform the charity's parliamentary work, research, legal and participation work as well as its projects.
- 1.3 Our legal team works directly with children and young adults in prison, dealing with hundreds of requests for assistance every year. At the heart of our legal service is our free and confidential advice line that is available to young people in prison. Our legal team provides legal advice and representation on a wide range of issues, from parole, recall and criminal appeals against sentence, to help with resettlement into the community and treatment while in prison.
- 1.4 The Howard League would welcome the opportunity to provide further information about any of the points below.

2. The ethos of the proposed National Standards is welcome but it is unclear how the standards will support it

- 2.1 We welcome the commitment to providing good outcomes for children and a best interests approach as set out in the introduction to the consultation for the revised Standards:

“It is our intention that the proposed Standards for Children in the Youth Justice System (2019), will better support services to deliver the aims of the system, provide a structure that gives statutory youth justice services the freedom to deliver good outcomes for children and young people, whilst also ensuring they do not unintentionally constrain innovation.

The Standards are based on our ‘child first, offender second’ principle and aim to prioritise the best interests of children in the youth justice system, promote their strengths and capacities, encourage their active participation and promote crime- free lives.”

- 2.2 However, apart from this positive statement of intention, we cannot see how it is reflected throughout the document.
- 2.3 There is no reference in the rest of the document to children's rights which underpin the “best interests” principle. This is contrary to stated government policy which states that “the Government has made a commitment to give due consideration to the articles

of the UN Convention on the Rights of the Child (UNCRC) when making new policy and legislation."¹

2.4 It is also not clear why there is a need to change the National Standard to avoid constraining innovation. Minimum standards are generally there to guarantee the fundamentals while allowing innovation on top. There is no reason why the National Standards cannot fulfil this role.

3. Missed opportunity to promote quality provision and remove the constraints of the scaled approach

3.1 The revised National Standards create an opportunity to promote quality provision. Yet we see no evidence that this opportunity has been taken. There are references to ensuring quality but it is hard to see how in reality the new Standards will encourage this in a meaningful way. The fact that the sector is “mature” means that it ought to be able to achieve high quality standards without feeling overly burdened.

3.2 Conversely, the one aspect of the requirements that may be rendered obsolete as a result of the maturity of the sector is the scaled approach, which appears to have been retained. We are not aware of any evidence that this approach has been seen to be effective and at its heart is a restriction on resources requiring workers to meet with children deemed to be at a certain level of risk, regardless of whether or not in reality the Youth Offending Team worker considers that necessary.

4. The removal of timescales

4.1 National standard 5 on transition and resettlement states,

‘YOTs and where applicable secure establishments should provide a tailored plan for children in the youth justice system, who make a transition, engaging with statutory services and parents and carers...’

4.2 There are no time limits at all in the draft National standard 5. The removal of the timescales for sentence planning and resettlement is a mistake. There are no longer hard time scales to hold people to account for failure to have a resettlement plan

4.3 Around one fifth of calls to Howard League for legal support for children concerns their needs and rights around resettlement leaving prison. Without hard edged timescales to use as leverage, it will be much harder to hold local authorities to account. One of the key concerns children face is not knowing where they will live sufficiently in advance of release. In his annual report published in 2018, the Chief Inspector of Prisons made the following observations in respect of resettlement from custody for children:

“too many children did not have their accommodation identified in time for their final review meeting. For some, accommodation was not provided until the day of release, which disrupted through-the-gate health care and

¹https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/645652/Guide_to_Making_Legislation_Jul_2017.pdf

substance misuse support, and prevented enrolment in education on release.

The only accommodation that could be found for one 15-year-old boy was nearly 200 miles away from his previous address and the establishment. He rejected the transport provided and refused to go. The establishment had to release him but, as his social worker was not at the gate to meet him, they then had to report him as a missing person to the local police.”²

- 4.4 The scenario above should not happen if statutory agencies comply with their legal duties. Removing the requirement to have an identified address no later than ten days before release will make it harder to argue that failure at this point is unlawful – if anything it should be earlier. We hope the decision to remove time limits will be reconsidered.

5. Conclusion

- 5.1 The revised National Standards say that they are outcomes focused but no outcomes are specified in the draft document. It is therefore hard to see how the stated aim will be achieved. We hope that the Youth Justice Board will reconsider its standards in light of our submissions and take this opportunity to retain time limits for release preparations and use this as an opportunity to enhance quality.
- 5.2 We would be happy to meet to discuss our views further.

The Howard League for Penal Reform
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² https://www.justiceinspectors.gov.uk/hmiprison/wp-content/uploads/sites/4/2018/07/6.4472_HMI-Prisons_AR-2017-18_Content_A4_Final_WEB.pdf see page 69