Justice Committee

Speech, language and communications needs of children and young offenders in the criminal justice system

Letter from the Scottish Government

Thank you for your letter of 27 June 2012, following the evidence session on 22 May. I noted with interest the discussions that took place and I am grateful for the opportunity to respond.

I agree in broad terms with the comments made by the individuals and organisations that made representations to the Committee, in particular, that no one part or stage of the system can be solely responsible for identifying and addressing the speech and language communication needs of young people. As you made a number of important points in your letter, I will address each of these in turn. However, it may be useful if I firstly provide some general information about the ‘Whole System Approach (WSA)’ to young people who offend, given that it was developed in recognition of the need to treat all under 18s who offend as children and it is underpinned by the principles of Getting it Right for Every Child (GIRFEC).

This approach involves putting in place streamlined and consistent planning, assessment and decision making processes for young people who offend, ensuring they receive the right help at the right time. The ethos of the WSA suggests that many young people could and should be diverted from statutory measures, prosecution and custody through early intervention and robust community alternatives. The approach was launched in September 2011 following a successful pilot in Aberdeen and programme of national roll-out is underway. A full suite of guidance to assist practitioners and decision makers was developed in partnership with the Association of Directors of Social Work, the Association of Chief Police Officers, Crown Office and Procurator Fiscal Service, Scottish Court Service, Scottish Children’s Reporters Administration, Scottish Prison Service and third sector organisations. The guidance is available at: www.scotland.gov.uk/wsa.

General

Moving on to the specific points raised. There is currently no specific common training required of all justice professionals who interact with young people as the context that they come into contact with them will differ significantly. However, all individuals paid or unpaid working with children, young people and their families should follow the principles set down in the Common Core of Skills, Knowledge & Understanding and Values for the “Children’s Workforce” in Scotland published in June 2012. The vast majority of workers will have a range of skills, knowledge and understanding far more comprehensive than that described in the Common Core. They may also have values that they view as particular to their profession or which are set by regulatory bodies. The Common Core is not an attempt to water down or replace the important skills, knowledge and understanding and values that workers possess and demonstrate but rather to strengthen that which is universal across all workers.
The police

The issue highlighted as ‘concealment’ is always a concern and is one that the police service in Scotland takes seriously. Within the service there is continuous professional development of officers and police staff in the fields of Public Protection (including child protection, domestic abuse), criminal investigation and custody supervision and general policing. For many officers and staff, training inputs on dealing with people, whether children, young adults or older persons who have a disability or learning difficulty is built in training.

I recognise that not all officers and staff are specialised in this area. However, those who come into contact with children and vulnerable persons most often have a higher level of training and awareness in assessing whether that person is in need of an appropriate adult.

I would point out that police officers will always seek to make judgments based on the best interests of the young person and in any case an investigative interview will not take place unless there is a parent/guardian or appropriate adult present. Likewise, when considering the statement “Often those with SLCN do not understand what they are accused of and will accept charges brought against them purely to end questioning”: I would not expect a young person to be questioned by the police without there being a parent, carer or other responsible person present, and should they provide information about communication difficulties then a decision would be required about whether or not the assistance of an appropriate adult is required.

From a training perspective, the following is provided to police officers:

Appropriate Adult Scheme
New recruits at the Scottish Police College receive training on this scheme and are provided with lessons on the behavioural traits which might identify that an appropriate adult is required. This training does have a focus on identifying mental disorders; however the sentiments of the scheme (to safeguard the individual and provide support to the police) is also equally transferable to the issue of young people who may have communication difficulties. In addition, all new recruits receive in-depth training in the correct procedures relative to young people who are either witnesses or alleged offenders.

Identifying people with a ‘clinical’ need
Again, this is a training area which is always evolving and the police therefore amend, update and introduce information which equips officers with skills to provide support to vulnerable people. The following is an example of training courses which are provided to officers throughout Scotland:

- Early Interventions During Education
- Children, young people and the impact of domestic abuse
- Joint Investigative Interviewing of Children
- Child Protection Course
- Dyslexia Training
- Autism
While never complacent about this issue, the police service in general has, along with partners, improved its multi agency approach towards GIRFEC and the Early and Effective Intervention processes. As part of the WSA, young people who come to the attention of the police for offending are assessed for Early and Effective Intervention, prior to referral to the Children’s Reporter. The aim is that young people receive an appropriate intervention in a timely manner, while at the same time being diverted away from formal and statutory systems where possible. Early and Effective Intervention panels are made up of police, social work, health, education and third sector partners, all whom share information to make an informed decision. The most appropriate supports, specific to the young person’s needs is paramount and processes seek to ensure this is provided. It should be noted that where no offence has taken place and behaviour or welfare is a cause for concern the police can refer the concern to social work for further assessment.

Skills for Justice completed a scoping exercise for training needs for the Scottish Police Force on Youth Justice and GIRFEC earlier this year. The scoping exercise identified a clear commitment from the police to training in this area. However, it did recommend that a standardised national training package is developed with clear learning outcomes identified. The Scottish Government has granted funding to Central Scotland Police to take forward this development in partnership with Skills for Justice and the Scottish Police College. It is expected that this training will be tiered at 3 levels with tier 1 aimed at operational staff to tier 3 being aimed at specialist such as those working in child protection or multi agency public protection arrangements.

While I am satisfied that they have processes in place, it would seem advantageous to listen to experience of the Royal College of Speech and Language Therapists (RCSLT) in order to better inform or amend their ever evolving training programmes. The Crime Management Division, based at the Scottish Police College would welcome any new advice and would be a suitable contact point for the RCSLT.

**Courts**

It is critical that young people understand what will happen when they attend court. During development of the WSA, court was identified as an area where young people required robust support, the project therefore set out guidance for Local Authorities, the Judiciary, Court Staff, Police, Crown office and Procurator Fiscal Service and Service Providers on ‘Assisting Young People aged 16 and 17 in Court’ (September 2011). This toolkit predominantly focuses on 16 and 17 year olds, as they were formerly treated as adults, but it is also inclusive for those under age 16 who are prosecuted under the Lord Advocate’s guidelines. It aims to assist those who are involved with under 18s appearing in court, to develop efficient and effective local approaches to handling such cases.
Implementation of the approach requires that a dedicated court worker should be informed when a young person is going to be prosecuted; this allows them to make contact with the young person prior to their appearance in court, to offer support and information on the court process. The court worker, or other professional involved with the young person will write to, or telephone them, reminding them to attend court on the given dates and explaining the importance of good behaviour in an attempt to prevent breach of bail conditions and reoffending. The worker should be present in court to provide additional information to the sheriff and share information with the defence as necessary.

Given the disproportionate communication needs identified in this group the approach promotes that consideration is given to how best to communicate with the young person prior to, during and after court in a manner which is accessible, attracts their interest and facilitates their understanding. It highlights the use of language and recommends that the judiciary and other professionals involved with young people in court take account of the additional needs that this group present. Particularly, that care should be taken during all stages of the process to use plain English and to avoid legalistic terms. Where it is necessary to use legal terms, these should be explained, either before or afterward, in an accessible way to young people.

Defence agents, social work and other professionals all have a role in considering what additional support may be required for young people with mental health problems, learning disabilities and learning difficulties, this definition would include those young people with additional speech, language and communication needs. Further, the Vulnerable Witnesses (Scotland) Act 2004 provides that any witness in the High Court or the Sheriff Court aged under 16 (under 18 in human trafficking cases) when the complaint or indictment is served is automatically entitled to use standard special measures (a live TV link in another part of the court building, a screen in the courtroom (an accused witness is not entitled to use a screen) and a supporter with either of the first two) to help them give their evidence to the court. They can also apply for "further" special measures - a live TV link outwith the court building, prior statement, evidence by commissioner,

A young person aged 16 and over when the proceedings begin, would be classed as a vulnerable witness if the court considers the quality of their evidence will be affected by mental illness, personality disorder, learning disability, or fear or distress. An application can be made in respect of a vulnerable witness for any of the special measures detailed above (except a screen for an accused witness) to help them give their evidence to the court.

The recent Making Justice Work for Victims and Witnesses, Victims and Witnesses Bill- A Consultation Paper published by Scottish Government in May 2012, set out proposals to raise the age of child witness to age 18, meaning that if these proposals are progressed into legislation, any young person under age 18 would be eligible for the support, for giving their evidence to the court, currently available for under 16s as set out above.
Prisons

Attendance at learning services in Scottish prisons is undertaken on a voluntary basis although there are wide ranging informal activities to encourage and promote the benefits of engagement. A range of educational supports are available in each prison establishment, including literacy classes to small groups and one to one interventions aimed at improving communication skills through speaking and listening. Young people attending these services who fail to make expected progress may receive referrals for further assessment or specialist interventions.

Decisions regarding release on parole are entirely a matter for the Parole Board for Scotland who, in reaching a decision, will take account of all the information about the individual including the risk he/she currently presents to the public.

In relation to young people, the Scottish Prison Service is currently piloting a general offending behaviour programme developed during 2011/12 – the Youth Justice Programme (YJP). The YJP is specifically designed to be age and stage appropriate for young people. The programme utilises a range of methods and learning styles to cater for the varying developmental stages of young people in custody. The programme is delivered through a combination of group work and individual support, allowing young people to work at a pace at which they are comfortable and the content is tailored to individual need.

Additional support is available to young people in HMYOI Polmont and HMP & YOI Cornton Vale through ‘Plan B’, where Barnardo’s have provided a youth worker who engages with 16/17 year old young people and offers one to one support.

Speech and language therapy is a key aspect of primary NHS services. Prior to responsibility for prisoner healthcare transferring to the NHS on 1 November 2011, SPS funded a modest speech and language therapy service in both HMYOI Polmont and HMP & YOI Cornton Vale. Following transfer to NHS, this service has continued in both establishments; two days per week in HMYOI Polmont and one in HMP & YOI Cornton Vale.

Reducing reoffending

The WSA highlights the importance of the assessment process in order to identify the needs and risks of young people involved in offending. This allows for individualised plans to be produced to effectively address the identified needs of the young person. I believe that this individualised and tailored approach is the right one. The number of recorded crimes and offences by children and young people are down by 27.8% since 2008-09. Offence referrals to the Children’s Reporter have fallen by 66% since 2006/07, and the number of under 21s in the prison system on remand and sentenced has fallen by 15% and 23% respectively since 2009/10.

National Youth Justice Development Team

The committee referred to the National Youth Justice Advisory Group. However, the work being described is actually being undertaken by the National Youth Justice Development Team, part of Edinburgh University’s Criminal Justice Social Work
Development Centre. Three network events will take place in January 2013 (Glasgow, Edinburgh and Aberdeen). These events will focus on the communication needs of young people under age 18 in the criminal justice system, and in particular, those in custody. The National Youth Justice Development team will also host events in October 2012 on working with 16 and 17 year olds in the justice system and will include focus on their communication needs. These events are aimed at practitioners across all sectors of youth justice working directly with young people and their families.

The RCSLT and the Shannon Trust, which provides literacy provision in prisons, will be invited to contribute at the Network events in January.

I understand that the focus of your fact finding investigation is that of speech, language and communication needs young people in the criminal justice system, however; I noted the very valid opinion, that these unmet needs should be identified as early as possible. I believe that this should happen at the earliest opportunity which is why the Scottish Government recognises the importance of the early years in terms of determining outcomes across a number of areas of life. The Government published the Early Years Framework in 2008 and has continued to build on this Framework by establishing the Early Years Taskforce and the Early Years Change Fund. Both of these are aimed at shifting the balance of public sector thinking and services to supporting prevention and early intervention.

Communication skills in the very early years of life are a key indicator in measuring a child’s development in a number of aspects: physical, emotional and social. The reintroduction of the 24-30 month review and the Early Years Collaborative, which will be established next spring will re-emphasise the importance of this.

The Scottish Government’s highly successful PlayTalkRead campaign aims to support parents to interact with their very young children aged 0-3 by playing, talking and reading with them more, all of which contribute to improved communication skills. The Government’s parenting strategy, which will be published this autumn, will build on our commitment to help parents to be the best parents they can be.

I would also refer the Committee to the recently launched the National Delivery Plan for the Allied Health Professions (June 2012) it sets out actions that call for AHP to be more visible, accountable and impact orientated in NHS Boards and Local Authorities. I recognise that AHPs have a significant responsibility in relation to services for children and ensuring that children and young people have the best possible start in life, therefore there is a dedicated chapter for supporting early years. Within this chapter it highlights the importance of children and young people who have communication difficulties to receive the support required to access to curriculum and to achieve their full potential through partnership approaches and creative working across agencies including justice.

Further, in relation to the early identification and support of learning needs for children and young people, the Education (Additional Support for Learning) (Scotland) Act 2004 (as amended) provides the framework for the identification and provision of support for children and young people at school. The Act places duties on education authorities and other agencies, including health and social work
services to provide additional support to children and young people who have an additional support need which causes a barrier to their learning. There are a wide range of factors that may lead to children and young people having a need for additional support. These fall broadly into four overlapping themes: learning environment, family circumstances, disability or health need and social and emotional factors. Education authorities must broadly; identify, plan and make provision for the support to be provided and review that support to ensure it is appropriate. For some pupils, whose needs are complex or multiple and who need significant support from more than one agency, a co-ordinated support plan may be required. This is a statutory plan which co-ordinates and records the support to be provided. This plan has specific rights attached to it. Further information on the Additional Support for Learning legislation and the guidance which supports the legislation can be found at:

http://www.scotland.gov.uk/Topics/Education/Schools/welfare/ASL

I hope this is helpful in setting out current practice and some of the Scottish Government’s initiatives around the communications needs of young people.

Kenny MacAskill MSP  
Cabinet Secretary for Justice  
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