

STATES OF JERSEY



YOUTH CUSTODY FOR PERSONS AGED 12 AND OVER (P.2/2004): COMMENTS

**Presented to the States on 6th April 2004
by the Education, Sport and Culture Committee**

STATES GREFFE

COMMENTS

1. Introduction

This report is the response of the Education, Sport and Culture Committee to Proposition P.2/2004, *Youth Custody for persons aged 12 and over*, lodged by the Deputy of St. Martin. It examines some of the practical issues associated with secure provision and explores the potential impact of the Deputy's recommendations on the *Greenfields Centre*.

It should be considered alongside the responses of the Home Affairs and Health and Social Services Committees.

2. Background

Article 16 of the Criminal Justice (Young Offenders) (Jersey) Law 1994, provides for the custodial remand of children under school-leaving age. Under the Law, the Education Committee is responsible for designating remand facilities. Les Chênes was the designated facility but when the Children's Service transferred to Health and Social Services, Les Chênes remained the responsibility of the Education Committee because it was primarily a school. The Greenfields Centre is currently the designated remand centre. Although education is provided on the premises, it is not considered a school because it is predominantly staffed by residential child care officers and care is its core purpose.

The Law does not provide for custodial sentencing of school age children, except under Article 5 where the offence is considered so grave that it would warrant a sentence of over 14 years. The Deputy of St. Martin believes that custodial sentencing for lesser crimes should be introduced for juveniles aged between 12 and 14 years and that the *Greenfields Centre* be used for this purpose.

3. The Committee's position on secure provision

In recent years, troubled and troublesome children have become the focus of increasing political and media attention. Between 1995 and 2002, in England and Wales, the number of children placed in secure

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accommodation increased by more than 80% . In March 2002, 46% were 14 years old or younger compared with 22% in 1992. There is overwhelming evidence that secure care is, for the most part, ineffective with 'most young people returning to the problems and lifestyles which led to their admissions

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to secure accommodation' . Secure accommodation for young people is an expensive and often ineffective intervention.

The Education, Sport and Culture Committee takes the view that it is necessary for a very small number of children who may be serious offenders, a risk to themselves or a significant risk to the public.

Depriving a child of liberty is a severe measure that should only be considered as a last resort. It may form

part of a comprehensive strategy to deal with youth offending but should only be used in a way that protects children and recognizes the vulnerability of the institutions that provide care and security for them.

4. The Committee’s position on custodial sentencing

Increased use of secure accommodation

As of March 2002 in England and Wales, over 80% of the young people in secure accommodation had been placed there through the Criminal Justice system. Eight percent were accommodated under voluntary care arrangements and 10% under statutory care proceedings. In Jersey between 1997 and 2003, the number of young people dealt with by way of Parish Hall Enquiry decreased by 8.25% whilst the number referred to Youth Court increased by 52.2%. The Committee questions whether easier access to custodial sentencing for children in Jersey might lead to an increase in its use.

The needs of the child

Many of the young people who find themselves repeatedly at odds with the Law have great difficulty understanding the limits of acceptable behaviour. They invariably have disturbed family backgrounds, low self-esteem, specific learning needs and struggle to succeed in school. They do not see themselves as having much to lose and often fail to anticipate the consequences of their actions. They may have a tendency to abscond and this can lead to a secure placement. There is ‘compelling evidence to support the

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view that the major problem faced by those who run away is other people’s reaction to it’ . Nevertheless, vulnerable young people do find themselves in secure accommodation because of their tendency to run away from the consequences of their actions rather than the actions themselves.

The case profile below illustrates this. It involves a 15-year-old girl of low ability, who could be categorised under (a)(i) of Deputy Hill’s Proposition as an offender who ‘has a history of failure to respond to non-custodial penalties and is unwilling to respond to them’ . Less than one year from entering the Criminal Justice System, she has been sentenced to 13 weeks in prison for offences that, individually would not normally attract a custodial sentence for an adult.

There can be no disputing the fact that this girl’s behaviour has been poor, but 2 themes emerge from a study of her case; an early introduction to the Criminal Justice System and the use of secure remand before, for example, referral to a Children’s Home. Her travel through the system has been swift, largely because responses to her offending have failed to address her needs adequately.

| Date | Offence | Response |
|----------------|--|--|
| February-April | Breaking and entry; receiving £35 knowing it to be stolen; involved in a fight with other girls. | Attended Parish Hall Enquiry; referred to Youth Court; 6-month Binding-Over Order. |

April-June

Larceny (£32.26), common assault and breach of Binding-Over Order.

Attended Youth Court; 6-month Probation Order.

July

Malicious damage (*Not Guilty* plea entered); failure to appear in Court.

Arrest ordered; new 6-month Probation Order.

August

Larceny of alcohol from a shop.

New 6-month Probation Order; curfew.

October

Larceny 3 CDs; failure to appear in Court.

Remanded to Greenfields.

Absconded from Greenfields causing malicious damage to a door.

First 24 hours in police custody; returned to Greenfields; subsequently released on curfew.

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| November | Breach of curfew. | Remanded to Greenfields; subsequently 50 hours Community Service. |
| December | Larceny 3 litres Vodka. | Youth Court – custodial sentence 13 weeks at La Moye. |

The vulnerability of secure units

Dr. Kathie Bull, in her *Review of Principles, Procedures and Practices at Les Chênes Residential School (2001)* highlighted the considerable pressures on Les Chênes brought about by having to manage a mixed population of juvenile offenders and children experiencing emotional and behavioural problems. She also drew attention to the adverse impact of overcrowding on the school.

Secure units are vulnerable because of their character and function. They can be calm or tense environments to live and work in, depending on the nature and degree of challenge presented by the particular children in residence. Overcrowding can lead to destabilisation and a breakdown in the effective management of care and control of the resident population.

In England, before a secure order can be made, the Court must ensure in advance, that a secure place is available. This is done through a clearing house system that allows for some differentiation of secure provision according to the age, maturity and particular needs of the young people. It also enables appropriate distribution of secure places so as to minimise overcrowding. The range of provision is as follows.

- For those over 15 years, Young Offenders' Institutions (YOIs) provide a similar disposal to that which exists at La Moye.
- Secure Training Centres (STC) offer what could be described as a 'junior' prison experience, for young people aged between 12 and 15 years.
- Local Authority secure units cater for boys aged 12 – 14, girls aged 12 – 16 and some boys aged 14 – 16 who, because of their immaturity and vulnerability, would be inappropriately placed in a YOI or an STC.

In Jersey, a solitary secure unit may need to provide for children on welfare placements, violent and aggressive offenders, psychiatric cases and/or children who are substance-dependent. This unit would be highly vulnerable. To ensure that it could sustain high standards of care for children placed there, the impact of each new admission, on the child to be admitted and on the children already in residence, would need careful consideration.

For the reasons outlined above, the Committee takes the view that the admission of children to secure accommodation should be based on the needs of the child.

The Committee's position on Greenfields as a secure unit

Accommodation

Secure units for children are associated with high rates of attempted suicide, self-harming, depression and violence. Young people on longer term placements sometimes resort to self-harming as an expression of

frustration with their predicament. Over the past 10 years, in U.K. young offender institutions, 18 teenagers have taken their own lives and over 1,000 incidents of self-harming have been recorded. All secure units in the U.K. are subject to rigorous inspections against clearly defined National Standards and criteria.

The standard for accommodation requires that –

‘The premises and associated outdoor areas must be designed to prevent unauthorised entry or exit. They should facilitate supervision and minimise opportunities for self-harm while providing accommodation which is, in so far as is practicable, appropriate to its designation as a children’s home. It must also be properly maintained and furnished.’

Security at Greenfields has been improved, primarily due to the structural work undertaken and modifications to the regime. However, the building does not comply with basic modern standards for secure accommodation; its configuration complicates supervision and design standards do not effectively minimise opportunities for self-harm. Without further expensive adaptation, it would be difficult for even the most experienced staff to manage longer term, secure placements.

Conclusion

Proposition P.2/2004 invites States Members to consider the introduction of custodial sentencing for children between 12 and school-leaving age. This implies that a mechanism for incarcerating children be made available to the Criminal Court as a sentencing option.

The Education, Sport and Culture Committee would urge States Members to reject this, because to do otherwise would be to adopt an approach that is known to be problematic and generally ineffective. However, the Committee does recognize that there is a need for some secure provision and takes the view that the route to this provision should be through the Civil Court. This would ensure that the needs of the child are the prime consideration and that they are balanced against the needs of other children who may already be residing at the secure unit.

A draft of the *Recommendations of the Children’s Executive* has now been released for consultation. The concerns of the Deputy are addressed in those recommendations as part of a comprehensive response to youth offending. To move forward with the secure element will require changes to legislation and the construction of a small purpose-built secure unit. A building design team has already been formed to conduct a feasibility study in relation to this. It is anticipated that a new unit would be similar, in nature and function, to a Local Authority unit in England and provide for boys aged 12 to 14, girls aged 12 to 14 and vulnerable boys aged 14 to 16. It would be staffed predominantly by Residential Social Workers with Education provided by qualified teachers. The Children’s Executive, in its recommendations, proposes that access to any new unit should be through a Secure Placement Order which could be granted on application to the Royal Court.

[1] *Children Accommodated in Secure Units ending 31st March 2002: England and Wales.*

[2] *Children in Secure Accommodation (O’Neill, 2001).*

[3] *Children in Secure Accommodation (O’Neill, 2001).*