



## **Note of a meeting post Carlile Inquiry Report Organised by The Michael Sieff Foundation Committee Room G House of Lords 27 March 2018**

To consider progress on implementation of recommendations and next steps, noting the Charlie Taylor Report

Present: Lord Alex Carlile (Chair), Fiona Abbott, John Bache, Lord Ian Blair, Phil Bowen, Carmen de Cruz, John Drew, Claire Ely, Philippa Goffe, Sir James Munby, Lord Fred Ponsonby, Shauneen Lambe, Chris Stanley, Charlie Taylor, John Tenconi, Jo Thomas, Eileen Vizard, Mairi Warrington (YJB), Richard White, Ali Wigzell, Joanne Thambyrajah (MoJ).

### **Speakers**

AW introduced the discussion. The Carlile Inquiry had reported nearly four years ago. Since then there has been a radical reduction of children and young people in the criminal justice system. This should offer the opportunity to pay more attention to individual needs, but the reality is that minor cases are still ending up in court unnecessarily; children's needs are not being met, mental health and deprivation are not being addressed. The language used in court remains inappropriate and children are not engaged or participating effectively. Some conditions have changed:

- 258 magistrates' courts had closed since 2010. The closure of Cambridge was cited as an example, necessitating a journey to Peterborough.
- Practice had moved many youth court hearings from the Crown Court to the Youth Court. There was still debate as to how far this practice should go. [See the Michael Sieff Foundation seminar on venue for youth trials held on 7 February 2018.] The greatest concern appeared to be about the right to a jury trial and the potential loss of that right for a child. Could that be remedied by a small jury?
- Competence: the Bar Standards Board had made progress by introducing a register of Counsel. Should this be mandatory? The Law Society / Solicitors Regulation Authority did not appear to have made progress. Representation in the police station remained an issue. The Legal Aid Agency, an executive agency of the Ministry of Justice, had taken no steps to improve lawyers' funding to reflect expertise, in spite of strong recommendation in both Carlile and Taylor Reports.
- Other outstanding recommendations related to judicial monitoring of cases, the court reviewing local authority work, panel review hearings out of court, children's anonymity and criminal records.

CT drew attention to the continuing reduction in numbers coming before the courts. Fewer cases in the youth courts were leading to a loss of expertise, but children left in the criminal justice system had complex social needs which the current system is not

equipped to address. As part of his Review of Youth Justice he looked at other jurisdictions. He noted judicial continuity in proceedings in FDAC and in Spain. The judge in Spain visited children in custody and spoke directly to them about progress being made. In Scotland the Panel held the system to account – although he noted that follow up might well not be by the same Panel. He had been struck by the lack of involvement of parents/carers in cases – very different to what happens in a school environment. Although the Government supported many recommendations in his Review, he felt that progress had been derailed by Brexit but we should continue to keep the pressure on the Government. JB said that he felt that the culture of the Youth Court had improved and that it was possible to achieve continuity of magistrates.

Sir James Munby spoke about a lack of consistency in dealing with children in the court system with no single Minister for dealing with children across the piece. He noted that judicial continuity worked in FDAC and produced financial savings. There could be lawyer free reviews. He referred to his Howard League lecture in November 2017 in which he had drawn attention to the wide range of court proceedings in which a young person might be involved. He said children get caught up in different systems which often clash and don't benefit the child. The system should be coordinated better and expertise shared. In the absence of legislation he thought that family court judges should be ticketed to act in the criminal courts to bring in their expertise. He spoke about how family courts and Immigration and Asylum courts are taking forward a joint approach under his lead, with the support of Sir Ernest Ryder, and a Working Group had been set up consisting of three Family Judges and three Immigration Judges to explore parallel proceedings. His view is that there is a lot of scope within procedural arrangements to adopt such changes more widely. He referred to the success of FDAC courts and how the welfare of children has been addressed where they have been within the scope of proceedings. He agreed that there is scope to provide continuity within the court system which could be brought into youth courts.

## **Plenary session**

AC raised issue of jury trial and how increasing cases in the youth court is often viewed as removing this choice for children. SL said there should be consistency with equity of treatment for children. IB said there is a need to get messaging right as youth courts can be seen as soft.

## **Continuity and review**

Continuity was thought very achievable by JB and thought this could help with consistency of sentencing Phil B said HMCTS always say it is too difficult and expensive, but JM said this is not the case for judges. Can be more problematic for a bench of magistrates but should be able to get one member of a bench involved. HMCTS have introduced electronic rostering so this should be possible. FA said a 6 week follow-up on sentence would help address mags concerns about referral orders and could allow for adjustment of sentences based on feedback from YOTs. CS feared that magistrates were still opposed to sitting in both the Family Court and the Youth Court.

FP has experience of sitting in different jurisdictions. Has used pre-trial interventions, but lacks formal follow-up which could improve outcomes.

PB suggested problem-solving approaches would provide follow-up and this is a very teachable skill.

### **Videolinks / virtual hearings**

There was concern about the expansion of the use of videolinks in youth proceedings. A recent example was cited of a young person who was sentenced to 10 years detention over a link and in the absence of family or other support. AW felt this threatened positive developments. Linked with the reduction in the number of courts, it increased the risk of the child being remote from the court and risked non-participation and disengagement. Targeted use of videolinks for remand hearings was ok but needs to be closely monitored and outcomes researched. Evidence to date is that wider use is detrimental to children. SL – said she had argued in a judicial review that access to representatives consultation in the process cannot apply if a child is dealt with via videolink; didn't win.

### **Assessment**

EV raised issue of lack of consistency of assessment in the criminal courts. Reports by experts can be challenged and ignored. Children can be subject to multiple assessments which are inconsistent. All reports should be shared and replication of assessment removed. After a case is dealt with the expert reports should be shared with those managing the child.

### **Criminal records**

SL said that retention of records remains a huge problem. Police intelligence information is held forever and can be disclosed on enhanced DBS checks without the individual knowing. She cited an example of a child being noted as having been sexting, wrongly recorded as sexual assault and then disclosed. AW referred to pursuing the Carlile Inquiry recommendation to expunge records at age 18, after an agreed period of time (excluding serious offences).

### **Courts Bill**

It was not known whether the Courts Bill would be reintroduced or whether the videolink provisions relating to children in the previous Bill would be retained.

### **Problem-solving courts**

PB spoke of the position on problem solving courts. CJI were looking at three pilots but there had been a nine months delay waiting on permissions from the MoJ and the Judiciary. They were currently conducting a landscape review of court activity.

JT concluded by saying that The Michael Sieff Foundation would be continuing to monitor progress and to have discussions with the MoJ and the YJB about their plans.

*Note taken by Richard White, Secretary Michael Sieff Foundation  
22 May 2018*