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This companion to *Every Child Matters* sets out possible reforms, on which the Government seeks views to develop the youth justice system over the next few years. The key proposals are to:

- **strengthen parenting interventions;**
- **improve understanding of trials and trial preparation;**
- **manage remandees better in the community;**
- **establish a simpler sentencing structure with more flexible interventions;**
- **run community intensive supervision and surveillance as the main response to repeat and serious offending while still having custody available;**
- **introduce a more graduated progression between secure, open and community facilities; and**
- **improve youth justice skills and organisation.**

Introduction

1. Alongside the proposals in the Green Paper to tackle the risks faced by children early in life, the Government considers it essential to tackle effectively the problems caused by, and the needs of, those young people who do become involved in crime – 200,000 of them are dealt with by the youth justice system each year. Substantial improvements have been made over the past few years in the way they are dealt with – speeding up cases; replacing police cautions with a new Reprimand and Final Warning scheme; new sentences including the Referral Order, Action Plan Order and Detention and Training Order; intensive supervision and surveillance programmes; improvements to the custodial estate; establishment of local multi-agency youth offending teams; a new main aim of preventing offending; and setting up the national Youth Justice Board to oversee delivery on the ground and commission and purchase secure places. We have in particular halved persistent young offenders' arrest-to-sentence time and cut juvenile reconvictions by 22.5 per cent. This companion to *Every Child Matters* sets out possible changes to build on those already made. We welcome comments to the same deadline as the main Green Paper proposals, 1 December 2003. See details at the end of this paper. We are looking for comments on all the proposals included in this document. In particular we would welcome comments on whether each proposal represents the best way forward, and whether there are specific practical issues that need to be addressed.

Basic approach

2. When children and young people do become involved in crime we would continue to operate a distinct youth justice system broadly on present lines, with a clear and visible response to offending behaviour from age 10 upwards. This is the right way to maintain and indeed improve public confidence in our response to youth crime, given the evidence on reconvictions, that this Government's First Parliament youth justice reforms are moving us in the right direction. Our changes would build on this good foundation by making the system more flexible and effective, drawing on some of the wider risk reduction approaches as well as the simplified sentencing approach we

are introducing for adults and (through the wider Green Paper work) seeking to establish closer working with other services dealing with children and young people.

3. The main themes would be further development of pre-court interventions in a way that reassures communities; clarifying the purposes of sentencing juveniles; completing the process of broadening interventions with parents which we are taking forward in this Session's legislation; improving young defendants' and their families' understanding of trials and trial preparation; managing young remandees in ways which help to prevent the guilty reoffending, including appropriate use of better community supervision; rationalising juvenile sentences to produce a structure which is simpler to understand, more coherent and offers maximum flexibility of interventions; establishing community intensive supervision and surveillance as the main response to repeat and more serious offending while still having custody available; introducing more graduated progression for individuals between secure, open and community facilities; and improving youth justice staff skills and organisation. This work would continue to be led by the Home Office; the Youth Justice Board for England and Wales, established in 1998 to ensure proper delivery of our reforms on the ground; and local Youth Offending Teams established by local authorities.

Pre-court interventions

4. A key part of the reforms has been the introduction of Reprimands and Final Warnings. Young offenders who admit their offence can be dealt with up to twice without going to court, but in a structured way that ensures they face up to their behaviour. Most Final Warnings are supported by intervention programmes, and if the young person offends again they go straight to court. Much of our early success in cutting reconvictions has come from this scheme.

5. The Government believes that the Reprimand and Final Warning Scheme, which diverts juveniles from court, is really proving its worth. It is speedy and efficient, frees up court time, and early intervention with juveniles through the scheme has been successful in reducing offending. The Government considers that diversions from court should be used wherever possible. We want to do this in a way that both involves and reassures local communities. The Referral Order, discussed in paragraph 16, has already shown how this can be done after a court conviction – through restorative justice panels led by community volunteers. **We invite views on how pre-court interventions can be developed further with young offenders, building on the success of recent reforms in a way that improves their range and impact while reassuring and where possible involving victims and local communities.**

General sentencing principles and structure

6. Currently the sentencing of young people is subject to several different statutory aims and principles – preventing offending, taking account of welfare and ensuring just deserts. We now **propose a single main sentencing purpose of preventing offending**, matching the principal statutory aim of the youth justice system as a whole which was set by the Crime and Disorder Act 1998. This would be supported by requirements for sentencers also to take into account the extent to which

punishment is needed; whether, and if so how, there needs to be public protection because of the seriousness or persistence of the offending; the individual's age and vulnerability; whether there should be a restorative or reparative approach and/or obligations on the young person's parents; and what particular interventions have been tried if the person has been sentenced before and what would be appropriate now. Other sentencing considerations, the costs of interventions and the evidence of their effectiveness would be set out by the Sentencing Guidelines Council.

7. We also **propose to simplify the range of juvenile sentences**, in particular replacing nine non-custodial sentences for juveniles with just one, a broader Action Plan Order. The change would not alter interventions under mental health legislation. All the juvenile sentences could be complemented by child behaviour and parenting contracts and Parenting Orders. The proposed individual sentences and contracts are outlined below.

Families and communities

8. Where they have been used, the Parenting Order powers we introduced in 1998 have shown great promise, but they are not used as much as they could be. Through this Session's legislation we are now introducing parenting contracts, making Parenting Orders available with Referral Orders and establishing powers to make free-standing Parenting Orders.

9. We want to ensure these powers are used to strengthen the 'whole family' approach to tackling youth offending. We would **issue guidance** to promote fuller use by youth justice agencies of parenting measures – making good use **in all areas** of the range of statutory powers, more actively **engaging fathers**, making sure **both parents** generally come to court and ensuring courts consider a **Parenting Order** where they fail to attend and provide **parenting programmes for young offenders who are parents**. And within their current target of ensuring that restorative processes are used in 80 per cent of youth justice disposals by the end of 2004, the Youth Justice Board would also encourage appropriate use of **family group conferencing**.

Policing, public order and courts

10. The Anti-Social Behaviour Bill has put before Parliament a number of measures to tackle emerging poor behaviour by young people as well as adults. We would enable courts to find out from local authorities what action they would take if a juvenile was remanded to local authority accommodation. The Bill would also ensure that any breaches of Anti-Social Behaviour Orders can be effectively enforced through youth courts. The Bill is also extending the Penalty Notices for Disorder Scheme to juveniles who behave antisocially.

11. When young people need to go to court the process needs to be both fair and effective. This means ensuring they properly understand what is going on, and participate fully so that they answer for their behaviour. To follow up work which has already been done in this area, in the form of changes in the style of trials for young people, **we propose to develop a Young Defendants' Pack** to help young defendants and their carers understand and participate in the court process. This

would entail **assigning youth offending team (YOT) officers or other professionals** to prepare young defendants and their carers for court hearings and to follow cases through the system, emphasising the rights and responsibilities of the young defendant in court. We also **propose to continue to promote the use of plain English at trials and to improve lawyers' training** with a view to accreditation for youth cases.

12. Around 5 per cent of young defendants are tried in the Crown Court because of the nature of their alleged offences or the age of their co-defendants. Two years ago the then Lord Chief Justice issued a Practice Direction requiring simpler language, more appropriate pacing and timing of trials, no uniforms, wigs or gowns and fewer people in the court room. In his Review of the Criminal Courts in England and Wales, Lord Justice Auld followed this up by recommending a strengthened youth court for serious cases – with a judge and at least two experienced lay magistrates but no jury. However, when we consulted publicly last year on how to do this, most respondents argued that we must retain the right to jury trial for serious crimes by young people. We accept the strength of feeling on this, and now propose a different approach. The current Criminal Justice Bill allows defendants of any age in the Crown Court to opt for trial without a jury. It also removes the need to wait for committal proceedings before trial in the Crown Court. And we now also **propose to develop specialisation of Crown Court judges in youth cases through selection and training.**

Remands

13. We need to ensure properly supervised bail is used wherever possible with young defendants. We intend to keep the present basic statutory criteria – remand in custody is still needed for persistent and serious offenders/alleged offenders – and by January 2004 to improve the courts' options by extending bail Intensive Supervision and Surveillance Programmes nationwide. We also now **propose to require courts to consider and have rejected bail options before remanding a juvenile in custody; and encourage alternatives such as expansion of remand fostering. We would also consider how to develop community bail hostels for young people in major cities.** We would also **issue guidance and launch a staff training programme to ensure that pre-sentence reports are better targeted and always give courts realistic options.**

Sentencing in the community

14. In line with paragraph 7 we envisage a number of individual and structural changes. As regards community interventions, **we propose to** replace nine juvenile non-custodial sentences with just one, a broader Action Plan Order, while also retaining Discharges, Fines and Referral Orders.

15. The **Discharge** would cover the present absolute and conditional discharges; and the **Fine** would continue to operate as at present.

16. The **Referral Order** after just 18 months accounts for around 30 per cent of juvenile court orders. It would continue to operate broadly on present lines, providing a community-led restorative justice panel to take a problem-solving approach to

crime by those who plead guilty on first conviction in the youth court. We plan now to make this more flexible. Regulations have recently been agreed which allow minor offences to be dealt with by other sentences, and we **propose that in future a Referral Order should be allowed on a further conviction**, for example where one had not been appropriate previously because the person had pleaded not guilty.

17. The expanded **Action Plan Order** would normally run from 1 to 12 months and give power to impose on each occasion up to two, or exceptionally three, interventions from a comprehensive menu. Twenty-four months would be available in exceptional cases. The menu would cover fines, reparation and a range of other specified activities – personal support from befrienders; programmes covering drug and alcohol awareness, anger management, mentoring and appropriate sexual behaviour; requirements to report to and comply with specific supervising officer directions; victim–offender mediation; family group conferencing; mentoring; sessions in junior activity centres, which would be an expanded and modernised version of the present junior attendance centres, run by YOTs; other individual specified activities; residence requirements with a responsible family member; fostering including intensive fostering, capacity for which we would need to develop over time; hostel placements and living in local authority accommodation; drug treatment and testing; alcohol treatment; and mental health treatment.

18. Bearing in mind their costs and availability, use of some of these interventions would depend on a positive recommendation having been made in the YOT report to court after agreement with local service commissioners and providers. Different interventions could be of different lengths within the same sentence. Because of its flexibility this sentence could be used on successive occasions, with different combinations of interventions. To reinforce this, if a young person appeared in court for breach or was convicted on a fresh charge, courts would be required to consider different interventions available within the same as well as any different sentence.

19. To support these structural changes, **YOTs would be encouraged to make child behaviour contracts with young offenders** to strengthen their commitment to changing their behaviour. We also want to increase local awareness of and involvement in reparation options; and to improve the arrangements for young offenders who have no settled home to go to after release. **We would ask local authorities and YOTs to work together to identify suitable community reparation projects**, consulting local people in the process of generating them; and **to consider the adequacy of local residential, resettlement and fostering accommodation. We would draw on the experience of the Department for Education and Skills' treatment foster care programmes to help design capacity for fostering young offenders whose family environment hinders work to tackle offending behaviour.** Linked to this, **YOTs would also promote offender-based outreach services for community sentence and custody leavers.**

More intensive sentences, including custody

20. We also want to establish Intensive Supervision and Surveillance – which is a highly supervised community programme involving close attention from supervising officers, full daytime programmes and electronic monitoring – as the main response to serious and persistent offending. It is currently being expanded to 4,200 places by

January 2004, three-quarters for sentenced juveniles and a quarter for bailees. To develop its full potential to tackle offending behaviour **we would include Intensive Supervision and Surveillance Programmes alongside custody within an Intensive Supervision or Detention Order (ISDO) for serious and repeat offenders.** The Intensive Supervision and Surveillance Programme within the present Supervision Order consists of three months' intensive programmes and three months' normal supervision. The current Anti-Social Behaviour Bill would enable that to be extended to six months plus six months; and the new ISDO would offer the same choice.

21. However, custody would still need to be available where the offence or offences are so serious that only a physical restriction of liberty can be justified. We therefore **propose that detention and training should be the second standard option under this sentence.** This would operate on the lines of the present detention and training order, half in custody and half under linked supervision in the community. We would remove the present separate restriction on such custody for a 12–14-year-old unless he or she was persistent, which has proved complex in practice. The maximum length for that age group would be 12 months; it would remain at 24 months for 15–17-year-olds. The minimum would stay at 4 months.

22. Beyond standard custody, for punishment and/or public protection reasons juveniles can currently receive detention of equivalent length to adults for serious/grave crimes under Section 90/91 of the Powers of Criminal Courts (Sentencing) Act 2000. In addition, the current Criminal Justice Bill provides for violent or sexual offenders who are individually assessed by the courts as so dangerous that they pose a significant risk of serious harm to the public to receive life detention or other extended detention. We propose that both disposals should continue. The most serious offences are no less damaging to victims and the community, and the most dangerous offenders are no less of a threat, because they involve under-18-year-olds.

23. However, within detention and training we should take steps to narrow the present artificial gap between custody and the community. A custodial sentence is serious and should be treated as such, but the structure and restraints it imposes need to be used positively to prepare for and manage effective resettlement into an orderly and law-abiding lifestyle. We **propose that the supervision in the community which makes up the second half of the sentence should focus on engagement with activities such as education, training and employment and as necessary make use of similar interventions to those in the proposed Action Plan Order; that as with older offenders suitable trainees could be placed in open and semi-secure as well as closed conditions, in different types of establishments** (which for juveniles may in future include, for example, more educationally focused institutions); and **that electronic monitoring should be used to support planned temporary release for programmes and home resettlement.**

24. We would also **consider how to improve the protection for children and young people held in juvenile custody; carry out our priority of moving girls and vulnerable boys to available better quality accommodation within the custodial system; and develop new-style custodial units nearer to major population centres.** These might, for example, be relatively small; have limited internal security; a strong education, training and resettlement focus; good ties

with external programmes, with inreach and outreach provision for appropriate young offenders; and be provided by a range of public, private and voluntary sector organisations.

Staff and organisation

25. The establishment of YOTs, bringing together members of five and sometimes more local services, has been a major step towards developing youth justice as a specialism. But suitably qualified staff are at a premium and are also needed by other services. Building on current Youth Justice Board work to establish new learning and development programmes and a new national qualifications structure, we propose improving the skills and motivation of youth justice staff – **putting 4,000 of them through a professional Effective Practice Certificate, providing for 2,000 Access Awards and expanding the present youth justice Advanced Modern Apprenticeship scheme.** This would bring in 10 per cent of youth justice workers from the same backgrounds as most young offenders – people with a good inside feel for the dynamics of the communities offenders tend to come from and the diversity and other challenges they pose.

26. We also want to help YOTs do even better in their important task. They are established by local authorities. We think this foundation in the communities they serve has worked well; as has the partnership between their police, probation, social services, education and health service members. Experience has shown how important it is for them to have good working links with other local services that deal with the needs of young offenders both while they are going through the youth justice system and afterwards. **We propose to review YOTs' membership and working arrangements with other services once decisions have been taken following up the Green Paper proposals on wider local structures for dealing with children and young people.**

Impact Assessments

27. Our initial analysis of the changes discussed in this annex does not indicate any impact on businesses, charities or the voluntary sector and consequently no formal Regulatory Impact Assessment (RIA) is attached. Should the response to the consultation indicate that this is not the case, then an RIA will be produced. However, there would be an impact on public service organisations and this would subsequently be analysed in the light of the consultation responses we receive.

Publication and disclosures

28. The information you send us may need to be included in a published summary of responses. Unless you specifically say otherwise in your response, individuals' responses might be quoted anonymously and organisations' responses may be attributed to them. We will assume that you are content for us to do this, and if you are responding by e-mail, your consent overrides any confidentiality disclaimer that is generated by your organisation's IT system, unless you specifically include a request to the contrary in the main text of your submission.

29. If you have any complaints or comments about the consultation process, you should contact the Home Office Consultation Co-ordinator, Geraldine Lilley, by e-mail at geraldine.lilley@homeoffice.gsi.gov.uk. Alternatively, you may wish to write to the address below:

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Consultation criteria

30. The Code of Practice on Written Consultation issued by the Cabinet Office recommends the following criteria:

A. Timing of consultation should be built into the planning process for a policy or service from the start, so that it has the best prospect of improving the proposals concerned, and so that sufficient time is left for it at each stage.

B. It should be clear who is being consulted, about what questions, in what timescale and for what purpose.

C. A consultation document should be as simple and concise as possible. It should include a summary, in two pages at most, of the main questions it seeks views on. It should make it as easy as possible for readers to respond, make contact or complain.

D. Documents should be made widely available, with the fullest use of electronic means (though not to the exclusion of others), and effectively drawn to the attention of all interested groups and individuals.

E. Sufficient time should be allowed for considered responses from all groups with an interest. Twelve weeks should be the standard minimum period for a consultation.

F. Responses should be carefully and open-mindedly analysed, and the results made widely available, with an account of the views expressed, and reasons for the decisions taken.

G. Departments should monitor and evaluate consultations, designating a consultation co-ordinator who will ensure the lessons are disseminated.

The full Code of Practice is available at <http://www.cabinet-office.gov.uk/regulation/Consultation/Code.htm>

Contact point for comments

31. Contact point for comments on the issues raised in this document

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