



Ministry of
JUSTICE

Youth Justice Board Triennial Review 2013

Call for Evidence:
Terms of Reference and Questions

Published 8 January 2013

Call for Evidence – Terms of Reference

Triennial Review programme

The Government's response to the Public Administration Select Committee report '**Smaller Government: Shrinking the Quango state**' sets out the plans for reforming public bodies. It includes new Triennial Review requirements for Non-Departmental Public Bodies (NDPB).

Triennial Reviews are expected to take around six months and are carried out by the Sponsor Department of the respective bodies. The Ministry of Justice (MoJ) is the sponsor Department for the Youth Justice Board for England and Wales (YJB).

Purpose of the review

As custodians of the public purse, whether paid by the professions or directly from public funds, it is important that we deliver an efficient and effective service to the public. The periodic review of our NDPBs is one of the ways that the Government intends to ensure that we maintain a lean, but effective public sector. A Triennial Review is a Cabinet Office mandated process for reviewing the functions of NDPBs, the appropriateness of the body's delivery mechanism and its governance arrangements.

The Triennial Review is divided into two Stages:

- Stage 1: the continuing need for the Youth Justice Board to carry out each of its functions in their current form; and
- Stage 2: where it is agreed that the individual functions should remain, to review the control and governance arrangements in place to ensure that the public body is complying with recognised principles of good corporate governance.

The call for evidence falls within the Stage 1 remit for Triennial Reviews, as mandated by Cabinet Office.

The review itself will take into account evidence submitted by stakeholders during other recent reviews where this information continues to be relevant. This includes (but is not limited to):

- [Safeguarding the Future: a review of the Youth Justice Board's governance and operating arrangements \(2010\)](#);
- [The Ministry of Justice Public Bodies Bill Consultation Paper \(2011\)](#);
- [The Justice Select Committee Report into the abolition of the Youth Justice Board \(2011\)](#);
- [The Public Accounts Committee: Reorganising central government bodies \(March 2012\)](#);
- [The Public Accounts Committee: The youth justice system in England and Wales: reducing offending by young people \(February 2011\)](#);
- [The Justice Select Committee Inquiry into Youth Justice \(2012\)](#); and
- [National Audit Office review into the youth justice system in England and Wales \(2010\)](#).

We invite you to submit your evidence in writing using the address below:
YJB Triennial Review team
8.19
Ministry of Justice
102 Petty France
London
SW1H 9AJ

Or by email to: TriennialreviewYJB@justice.gsi.gov.uk

All submissions must be received by the latest **Noon on Friday 15 February**. We cannot consider late submissions.

Respondents should be aware that the final report will be published in Parliament and may contain stakeholders' comments.

Call for Evidence – Questions

Introduction

The questions which follow are intended to frame the Youth Justice Board (YJB) Call for Evidence. The questions presume an understanding of the functions, form and purpose of the YJB. They are aimed at key stakeholders and representative bodies.

The YJB's strategic aims, as agreed with the Secretary of State for Justice to whom the YJB is accountable, are to:

- oversee the youth justice system in England and Wales;
- work to prevent offending and reoffending by children and young people under the age of 18;
- ensure that custody for them is safe, secure, and addresses the causes of their offending behaviour.

This review is considering how the YJB discharges its functions, rather than its strategic aims.

THE FUNCTIONS OF THE YOUTH JUSTICE BOARD

The Youth Justice Board (YJB) for England and Wales was established to support the strategic aims of the Government. It is an Executive NDPB of the MoJ. Its functions are set out in statute (see [Annex A](#) for a full list). The majority of functions are contained within section 41 (5) of the Crime and Disorder Act 1998 (the 1998 Act) and article 4(2) of the Youth Justice Board for England and Wales Order 2000 (the YJB Order).

A number of the functions listed are exercisable concurrently with the Secretary of State and in practice the Youth Justice Board may not be exercising each of the functions listed all of the time.

For the purposes of this call for evidence we have summarised and grouped the statutory functions as set out in Annex B, into 12 key functions as below:

A) *Overarching duty - principal aim of the youth justice system [s 37 of the Crime and Disorder Act 1998]:*

i) duty (along with other persons and bodies carrying out functions in relation to the youth justice system) to have regard to the aim of preventing offending by children and young persons, when exercising its functions. The YJB discharges this duty by exercising a coordinating role. It aims to ensure that all elements of the youth justice system, and the broader services that might be mobilised to lend support to the work of that system, combine to support the aim of preventing offending by children and young persons;

ii) monitoring the operation of the youth justice system and the provision of youth justice services.

B) *Advising and publishing information:*

advising the Secretary of State on, and obtaining and publishing information about:

i) the operation of the youth justice system, i.e. the prevention of offending by children and young persons, and the provision of youth justice services;

- ii) how the principal aim of the youth justice system might most effectively be pursued;
- iii) the content of any national standards set by the Secretary of State, and compliance with them, with respect to the provision of youth justice services or custodial accommodation for children and young persons;
- iv) the steps that might be taken to prevent offending by children and young persons and the extent to which this aim is being met.

C) *Good practice:*

identifying, making known and promoting good practice in:

- (i) the operation of the youth justice system and provision of youth justice services,
- (ii) the prevention of offending by children and young people; and
- (iii) working with children and young people at risk of offending.

D) *Making grants:*

making grants, with the approval of the Secretary of State, to local authorities or other bodies for them to develop good practice or commission research in connection with good practice;

[Grants refer to a) the youth justice grant to youth offending teams and b) other grants e.g. Intensive Fostering]

E) *Commissioning research:*

commissioning research in connection with good practice;

F) *Accommodation for detained under 18s:*

- i) providing Secure Training Centres (STC) and Youth Offending Institutions (YOI), including the purchase of land (including compulsorily) for such purposes;
- ii) contracting for the provision of accommodation (SCHs, STCs and under 18 YOIs) for certain under 18s who have been detained, and to facilitate arrangements between the Secretary of State and providers of such accommodation. A plan must set out how this is to be done over a three year period;
- iii) contracting for the running of STCs and under 18 YOIs;
- iv) contracting for the performance of functions at publicly run STCs and YOIs;
- v) annually assessing future demand for secure and other accommodation for under 18s who have been remanded or sentenced;
- vi) making arrangements about the accommodation of under 18s on remand in secure children's homes (SCH);
- vii) making payments to local authorities to fund non-secure remands to local authority accommodation;
- viii) recovering certain costs from local authorities arising from remands to youth detention accommodation and escort arrangements;

G) *Placement of children and young people:*

deciding where certain children and young people who have been detained by virtue of a court order should be detained;

H) Escorting children and young people between secure establishments: ¹

- i) making escort arrangements;
- ii) certifying custody officers;
- iii) appointing escort monitors;
- (iv) receiving reports from monitors on allegations made against escorts, and the monitor's investigations of those allegations.

I) STC monitors and YOI controllers

- i) appointing STC monitors and YOI controllers;
- ii) receiving reports on the running of STCs and on allegations made against escorts, and the monitor or controller's investigations of those allegations.

J) Other functions in relation to the under 18 secure estate:

- i) STCs and privately run YOIs only:
 - approving systems of privileges and sanctions;
 - approving sleeping accommodation;
 - authorising disclosure of information about offenders by staff;
 - authorising persons to view premises, take photographs, make sketches and communicate with trainees and inmates;
 - deciding library matters;
 - allowing governors/directors/YOI controllers to delegate powers/duties;
- (ii) Privately run YOIs only:
 - certifying cells/rooms as suitable for temporary confinement;
 - determining training matters;
 - determining food and tobacco matters;
 - allowing female inmates to have her baby with her;

K) Attendance centres:

providing attendance centres and being able to determine who is allowed to be present in an attendance centre;

L) Release conditions:

agreeing conditions for those subject to supervision following release from a Detention and Training Order (DTO).

¹ Secure establishments include: police stations, courts, secure mental hospitals, secure children's homes (SCH), secure training centres (STC) and youth offending institutions (YOI).

Completing your response:

Some stakeholders may have an interest in only one of the functions of the YJB, whereas others may have an interest in all of the YJB's functions. In your response, you may find it helpful to consider each function in turn that is of relevance to you. Responses do not have to consider each of the above functions. Please indicate which function you are referring to throughout your response using (A) to (L) as references in line with the list above.

The below questions are intended to act as a guide to forming your response:

1.1. Should the YJB continue to administer the specific function?

Points to consider:

- Why does the function need to continue?
- How does this contribute to the core business of the YJB and the MoJ?
- How does this contribute to wider Government policy objectives?
- Is there a demand for the function or activity from users?
- Is providing the function a justifiable use of taxpayers' money?
- What would be the cost and effects of not delivering the function?

1.2. Should the YJB undertake any other functions?

Taking into account the 1998 Crime and Disorder Act and the 2000 Statutory Instrument (as set out above), please consider whether there are additional functions that should be carried out by the YJB:

- Is oversight needed in other areas of the youth justice system?
- If so, is the YJB best placed to carry out this function or is there another delivery model that would be better placed to carry it out?
- Are there any additional functions currently being carried out by the YJB that should be made formal?
- Is the YJB carrying out any strategic aims as set by the Secretary of State that are not set out in statute?

1.3 Does the YJB have the right powers and levers in order to fulfil their functions?

2. ALTERNATIVE FORMS: IS THERE AN ALTERNATIVE FORM THAT EACH FUNCTION THAT THE YJB DELIVERS MIGHT TAKE?

Please find below a range of delivery options for consideration. This is not an exhaustive list – and consultees are encouraged to think creatively when considering how the YJB’s functions might be delivered.

These delivery options are set out in the Cabinet Office guidance “*Guidance on reviews of non-Departmental Public Bodies*” (link at Annex A).

2.1 Move out of Central Government

Points to consider:

- Why does central government need to deliver this function?
- Can the function be delivered by local government, by the voluntary sector or by the private sector?
- Is there an existing provider (or providers) in the local government, voluntary or private sector that could deliver this function?
- Can the function be privatised or delivered under contract by the voluntary or private sector?
- Can the function be delivered by a mutual, Community Interest Company or social enterprise?
- What are the costs, benefits and risks of moving the function out of central government?

2.2 Bring In-House [to MoJ]

Points to consider:

- Does the function need to be delivered at arm’s length from Ministers?
- Can the function be delivered more efficiently or effectively by the Ministry of Justice or by an existing Agency of the Ministry of Justice?
- What would be the cost, benefits and risks of bringing the function in-house?

2.3 Merge with another body

Points to consider:

- Are there any other areas of central government delivering similar or complementary functions?
- Does the function duplicate work undertaken elsewhere?
- Could the function be merged with those of another public body?
- What would be the cost, benefits and risks of merging the YJB with another body?

2.4 Delivery by a new Executive Agency

Points to consider:

- Could the function be delivered by a new Executive Agency?
- What would be the costs, benefits and risks of this?

2.5 Continued delivery by an NDPB

Points to consider:

- Is the YJB’s function:
 - (i) a technical function which needs external expertise to deliver; if so, how well is the YJB currently able to deliver this?
 - (ii) a function which needs to be, and to be seen to be, delivered with absolute political impartiality – such as certain regulatory or funding functions; if so, how well is the YJB currently able to deliver this?

(iii) a function which needs to be delivered independently of Ministers to establish facts or figures with integrity; if so, how well is the YJB currently able to deliver this?

- Are the freedoms and flexibilities inherent in the NDPB model being used to deliver the function?

2.6 Any other possible delivery options

Please consider any alternative forms of delivery not listed above for any of the specific functions.

3. Do you have any further comment on the functions of the Youth Justice Board, or additional functions that should be taken into account as part of this Triennial Review?

ANNEX A: LEGISLATIVE FRAMEWORK

1. SECTION 41 OF THE CRIME AND DISORDER ACT 1998

41. The Youth Justice Board.

(1) There shall be a body corporate to be known as the Youth Justice Board for England and Wales (“the Board”).

(2) The Board shall not be regarded as the servant or agent of the Crown or as enjoying any status, immunity or privilege of the Crown; and the Board’s property shall not be regarded as property of, or held on behalf of, the Crown.

(3) The Board shall consist of 10, 11 or 12 members appointed by the Secretary of State.

(4) The members of the Board shall include persons who appear to the Secretary of State to have extensive recent experience of the youth justice system.

(5) The Board shall have the following functions, namely—

(a) to monitor the operation of the youth justice system and the provision of youth justice services;

(b) to advise the Secretary of State on the following matters, namely—

(i) the operation of that system and the provision of such services;

(ii) how the principal aim of that system might most effectively be pursued;

(iii) the content of any national standards he may see fit to set with respect to the provision of such services, or the accommodation in which children and young persons are kept in custody; and

(iv) the steps that might be taken to prevent offending by children and young persons;

(c) to monitor the extent to which that aim is being achieved and any such standards met;

(d) for the purposes of paragraphs (a), (b) and (c) above, to obtain information from relevant authorities;

(e) to publish information so obtained;

(f) to identify, to make known and to promote good practice in the following matters, namely—

(i) the operation of the youth justice system and the provision of youth justice services;

- (ii) the prevention of offending by children and young persons; and
- (iii) working with children and young persons who are or are at risk of becoming offenders;
- (g) to make grants, with the approval of the Secretary of State, to local authorities or other bodies for them to develop such practice, or to commission research in connection with such practice; **F10**.
- (h) themselves to commission research in connection with such practice.

[F11](i) to enter into agreements for the provision of—

- (i) secure accommodation within the meaning of section 75(7) below for the purpose of detaining persons in respect of whom a detention and training order is made under section 73 below or an order is made under section 77(3)(a) or 78(2) below;
- (ii) accommodation which is or may be used for the purpose of detaining persons sentenced under section 53(1) or (3) of the 1933 Act;
- (iii) accommodation which is or may be used for the purpose of detaining persons dealt with under subsection (4)(c) of section 23 of the 1969 Act, as that section has effect in relation to persons described in section 98(1) below;
- (iv) accommodation which is or may be used for the purpose of detaining persons who are under the age of 18 when remanded in custody under section 128 of the 1980 Act;
- (v) accommodation which is or may be used for the purpose of detaining persons sentenced when under the age of 18 and before 1st April 2000 to detention in a young offender institution under section 1A of the 1982 Act; and
- (vi) accommodation which is or may be used for the purpose of detaining persons subject to secure training orders made before 1st April 2000 under section 1 of the 1994 Act;

but no agreement shall be made under this paragraph in relation to accommodation for persons who have attained the age of 18 unless it appears to the Board that it is expedient to enter into such an agreement for the operation of the youth justice system;

(j) to facilitate arrangements between the Secretary of State and any person providing—

- (i) secure accommodation within the meaning of section 75(7) below to be used for detaining a person in accordance with a determination under section 75(1), 77(3)(a) or 78(2) below, or

(ii) accommodation to be used for detaining a person in accordance with a direction by the Secretary of State under section 53(1)(a) or (3)(a) of the 1933 Act;

(k) to offer assistance to local authorities in discharging their duty under section 61 of the 1991 Act, whether by acting as the agent of a local authority or facilitating arrangements under section 61(2), or otherwise; and

(l) annually—

(i) to assess future demand for secure accommodation for remanded and sentenced children and young persons,

(ii) to prepare a plan setting out how they intend to exercise, in the following three years, the functions described in paragraphs (i) and (k) above, and any function for the time being exercisable by the Board concurrently with the Secretary of State by virtue of subsection (6)(b) below which relates to securing the provision of such accommodation, and

(iii) to submit the plan to the Secretary of State for approval.]

(6)The Secretary of State may by order—

(a) amend subsection (5) above so as to add to, subtract from or alter any of the functions of the Board for the time being specified in that subsection; or

(b) provide that any function of his which is exercisable in relation to the youth justice system shall be exercisable concurrently with the Board.

(7) In carrying out their functions, the Board shall comply with any directions given by the Secretary of State and act in accordance with any guidance given by him.

(8) A relevant authority—

(a) shall furnish to the Board any information required for the purposes of subsection (5) (a), (b) or (c) above; and

(b) whenever so required by the Board, shall submit to the Board a report on such matters connected with the discharge of their duties under the foregoing provisions of this Part as may be specified in the requirement.

A requirement under paragraph (b) above may specify the form in which a report is to be given.

(9)The Board may arrange, or require the relevant authority to arrange, for a report under subsection (8)(b) above to be published in such manner as appears to the Board to be appropriate.

(10) In this section “relevant authority” means a local authority, a chief officer of police, a police authority, a [F12 local probation board][F13 a Strategic Health Authority,] and a health authority.

(11) Schedule 2 to this Act (which makes further provision with respect to the Board) shall have effect.

Annotations:

Amendments (Textual)

F10 Word in s. 41(5)(g) omitted (20.4.2000) by virtue of S.I. 2000/1160, **art. 3(a)**

F11 S. 41(5)(i)-(k) inserted (20.4.2000) by S.I. 2000/1160, **art. 3(b)**

F12 Words in s. 41(10) substituted (1.4.2001) by 2000 c. 43, **s. 74**, Sch. 7 Pt. II para. 151; S.I. 2001/919, **art. 2(f)(ii)**

F13 Words in s. 41(10) inserted (1.10.2002) by The National Health Service Reform and Health Care Professions Act 2002 (Supplementary, Consequential etc. Provisions) Regulations 2002 (S.I. 2002/2469), reg. 4, **Sch. 1 Pt. 1 para.**

25(4)

Commencement Information

I5 S. 41 wholly in force; s. 41 not in force at Royal Assent, see s. 121. in force at 1.8.1998 for the purposes of making appointments under this section and under paragraph 1 of Sch. 2 by S.I. 1998/1883, **art. 2(a)**. s. 41 in force at 30.9.1998 by S.I. 1998/2327, **art. 2(1)** (subject to savings in arts. 5-8)

2. THE YOUTH JUSTICE BOARD FOR ENGLAND AND WALES ORDER 2000

STATUTORY INSTRUMENTS

2000 No. 1160

CRIMINAL LAW, ENGLAND AND WALES

The Youth Justice Board for England and Wales Order 2000

Made - - - - 19th April 2000

Coming into force - - 20th April 2000

Whereas a draft of this Order has been approved by a resolution of each House of Parliament, the Secretary of State, in exercise of the powers conferred by section 41(6) of the Crime and Disorder Act 1998(a) and of all other powers enabling him in that behalf, hereby makes the following Order:

Citation

1. This Order may be cited as the Youth Justice Board for England and Wales Order 2000 and shall come into force on the day after the day on which it is made.

Interpretation

2. In this Order—

“the 1933 Act” means the Children and Young Persons Act 1933(b);

“the 1952 Act” means the Prison Act 1952(c);

“the 1969 Act” means the Children and Young Persons Act 1969(d);

“the 1980 Act” means the Magistrates’ Courts Act 1980(e);

“the 1982 Act” means the Criminal Justice Act 1982(f);

“the 1991 Act” means the Criminal Justice Act 1991(g);

“the 1994 Act” means the Criminal Justice and Public Order Act 1994(h);

“the 1998 Act” means the Crime and Disorder Act 1998.

Amendment of section 41(5) of the 1998 Act

3. In section 41(5) of the 1998 Act (functions of the Youth Justice Board)—

(a) omit the word “and” at the end of paragraph (g); and

(b) after paragraph (h) insert—

“(i) to enter into agreements for the provision of—

(i) secure accommodation within the meaning of section 75(7) below for the purpose of detaining persons in respect of whom a detention and training order is made under section 73 below or an order is made under section 77(3)(a) or 78(2) below;

(a) 1998 c. 37.

(b) 1933 c. 12.

(c) 1952 c. 52.

(d) 1969 c. 54.

(e) 1980 c. 43.

(f) 1982 c. 48.

(g) 1991 c. 53.

(h) 1994 c. 33.

(ii) accommodation which is or may be used for the purpose of detaining persons sentenced under section 53(1) or (3) of the 1933 Act;

(iii) accommodation which is or may be used for the purpose of detaining persons dealt with under subsection (4)(c) of section 23 of the 1969 Act, as that section has effect in relation to persons described in section 98(1) below;

(iv) accommodation which is or may be used for the purpose of detaining

persons who are under the age of 18 when remanded in custody under section 128 of the 1980 Act;

(v) accommodation which is or may be used for the purpose of detaining persons sentenced when under the age of 18 and before 1st April 2000 to detention in a young offender institution under section 1A of the 1982 Act; and

(vi) accommodation which is or may be used for the purpose of detaining persons subject to secure training orders made before 1st April 2000 under section 1 of the 1994 Act; but no agreement shall be made under this paragraph in relation to accommodation for persons who have attained the age of 18 unless it appears to the Board that it is expedient to enter into such an agreement for the operation of the youth justice system;

(j) to facilitate arrangements between the Secretary of State and any person providing—

(i) secure accommodation within the meaning of section 75(7) below to be used for detaining a person in accordance with a determination under section 75(1), 77(3)(a) or 78(2) below, or

(ii) accommodation to be used for detaining a person in accordance with a direction by the Secretary of State under section 53(1)(a) or (3)(a) of the 1933 Act;

(k) to offer assistance to local authorities in discharging their duty under section 61 of the 1991 Act, whether by acting as the agent of a local authority or facilitating arrangements under section 61(2), or otherwise; and

(l) annually—

(i) to assess future demand for secure accommodation for remanded and sentenced children and young persons,

(ii) to prepare a plan setting out how they intend to exercise, in the following three years, the functions described in paragraphs (i) and (k) above, and any function for the time being exercisable by the Board concurrently with the Secretary of State by virtue of subsection (6)(b) below which relates to securing the provision of such accommodation, and

(iii) to submit the plan to the Secretary of State for approval.”.

Functions of the Youth Justice Board for England and Wales

4.—(1) The following functions shall, so far as exercisable in relation to the youth justice system, be exercisable by the Youth Justice Board for England and Wales concurrently with the Secretary of State, namely—

(a) the functions specified in paragraph (2);

(b) the transitional functions in relation to secure training orders specified in paragraph (3); and

(c) the transitional function in relation to detention in a young offender institution specified in paragraph (4).

(2) The functions are—

(a) making arrangements for delivery of persons sentenced under section 53 of the 1933

Act(a) (punishment of certain grave crimes) to the place where they are to be detained;

(a) Relevant amendments to section 53 have been made by sections 1(5) and 4 of the Murder (Abolition of Death Penalty) Act 1965 and section 16 of the Criminal Justice and Public Order Act 1994.

(b) the functions conferred on the Secretary of State by section 12(2) of the 1952 Act(a)(place of confinement of prisoners);

- (c) the function, conferred on the Secretary of State by section 36(1) of the 1952 Act**(b)**, of purchasing land by agreement;
- (d) the function conferred on the Secretary of State by section 43(1)(d) of the 1952 Act**(c)** (provision of secure training centres);
- (e) the functions conferred on the Secretary of State by section 16(1) and (4) of the 1982 Act (provision of attendance centres and arrangements for use of premises);
- (f) the functions conferred on the Secretary of State by section 61A of the 1991 Act**(d)** (local authorities: cost of secure accommodation);
- (g) the functions conferred on the Secretary of State by sections 80 and 81(1)(a) and (2) of the 1991 Act**(e)** (escort arrangements) and any function exercisable by the Secretary of State in relation to arrangements under section 80, including the procurement of, and the making of payments under, such arrangements;
- (h) the functions conferred on the Secretary of State by section 89 of, and paragraphs 2, 3(2)(a) and 4 of Schedule 10 to, the 1991 Act**(f)** (certification of custody officers);
- (i) the functions conferred on the Secretary of State by sections 7 and 11 of the 1994 Act of entering into contracts for the provision or running, or both, of secure training centres, or the performance of functions at directly managed secure training centres, and any function exercisable by the Secretary of State in relation to such contracts, including the procurement of, and the making of payments under, such contracts;
- (j) the functions conferred on the Secretary of State by paragraph 1 of Schedule 1 to the 1994 Act (escort arrangements), and any function exercisable by the Secretary of State in relation to arrangements under that paragraph, including the procurement of, and the making of payments under, such arrangements;
- (k) the functions conferred on the Secretary of State by—
- (i) section 8(1)(b) and (3) of the 1994 Act (secure training centre monitors);
 - (ii) section 12(3) of, and paragraphs 2, 3(2)(a) and 4 of Schedule 2 to, that Act (certification of custody officers);
 - (iii) section 14(1) of that Act (disclosure of information about offender);
 - (iv) paragraph 2(1)(a) and (2) of Schedule 1 to that Act (escort monitors: appointment and reports);
- (l) the functions conferred on the Secretary of State by rule 7 of the Attendance Centre Rules 1995**(g)** (permitting person to be admitted to or remain in an attendance centre);
- (m) the function, conferred on the Secretary of State by section 75(1) of the 1998 Act, of determining in which secure accommodation a person is to serve the period of detention and training under a detention and training order;
- (n) the functions conferred on the Secretary of State by—
- (i) section 75(7)(e) of the 1998 Act (detention and training orders: secure accommodation);
 - (ii) section 76(3) of that Act (detention and training orders: category of person to supervise offender);
 - (iii) section 76(6) of that Act (detention and training orders: supervision notices);

- (iv) section 77(3) of that Act (detention and training orders: detention on breach of supervision notice);
- (v) section 78(2) of that Act (detention and training order: detention on conviction of offence during term of order);

(a) Section 12 is applied to remand centres and young offender institutions (and to persons detained in them) by section 43(5).

(b) Section 36 is applied to remand centres, young offender institutions and secure training centres (and to persons detained in them) by section 43(4) and (4A).

(c) Section 43 was substituted by section 11 of the Criminal Justice Act 1982, and subsection (1)(d) was inserted by section 5 of the Criminal Justice and Public Order Act 1994.

(d) Section 61A was inserted by section 21 of the Criminal Justice and Public Order Act 1994.

(e) Section 92 of the Criminal Justice Act 1991 extends the meaning of “prison” and the effect of sections 80 and 81(1).

(f) Section 92 of the Criminal Justice Act 1991 extends the meaning of “prison” and the effect of section 89 and Schedule 10.

(g) S.I. 1995/3281.

(o) the functions conferred on the Secretary of State by—

(i) rule 18 of the Secure Training Centre Rules 1998(a) (approval of room to be used as sleeping accommodation in secure training centre);

(ii) rule 42(1) and (2) of those Rules (authorisation of persons to view secure training centres, take photographs, make sketches and communicate with trainees);

(iii) rule 45 of those Rules (giving leave to governor of secure training centre to delegate powers and duties to another officer).

(3) The transitional functions relating to secure training orders are those conferred on the Secretary of State by—

(a) section 2(2)(a)(i) and (ii) of the 1994 Act (directing, or arranging with other persons, the place in which and conditions on which offender to be committed following exercise of the court’s power under section 4(3)(a) to order offender to be detained on breach of supervision requirements);

(b) section 2(4) of that Act (transferring offenders subject to a secure training order, and directing, or arranging with other persons, the place in which and conditions on which person to be transferred);

(c) section 3(2) of that Act (designation of person to supervise offender subject to secure training order); (d) section 3(3) of that Act (determination of category of person to supervise offenders subject to secure training orders); and (e) section 3(7) of that Act (giving supervision notices to offenders subject to secure training orders), as those provisions(b) have effect in relation to persons who are subject to detention or supervision under a secure training order (within the meaning of section 1 of the 1994 Act) made before 1st April 2000.

(4) The transitional function in relation to detention in a young offender institution is the function conferred on the Secretary of State by section 1C(2) of the 1982 Act(c) (direction as to detention in prison or remand centre instead of in a young offender institution), as that provision(d) has effect in relation to persons sentenced to detention in a young offender institution before 1st April 2000.

Home Office *Jack Straw*

19th April 2000 One of Her Majesty’s Principal Secretaries of State

(a) S.I. 1998/472.

(b) Sections 2 and 3 of the Criminal Justice and Public Order Act 1994 were repealed by section 73(7) of the Crime and Disorder Act 1998. That repeal was brought into force with savings from 1st April 2000 by S.I. 1999/3426 (C. 94).

(c) Section 1C of the Criminal Justice Act 1982 was inserted by section 123 of the Criminal Justice Act 1988 and relevant amendments were made by section 18 of the Criminal Justice and Public Order Act 1994 and section 63 of the Criminal Justice Act 1991.

(d) The power in section 1A of the Criminal Justice Act 1982 to pass a sentence of detention in a young offender institution was repealed by section 73(7) of the Crime and Disorder Act 1998. That repeal was brought into force with savings by S.I. 1999/3426 (C. 94).

EXPLANATORY NOTE

(This note is not part of the Order)

This Order confers functions on the Youth Justice Board for England and Wales, which was established by section 41 of the Crime and Disorder Act 1998. Article 3 confers new functions on the Youth Justice Board for England and Wales by adding new paragraphs (i) to (1) to section 41(5) of the Crime and Disorder Act 1998. Article 4 lists functions exercisable by the Secretary of State in relation to the youth justice system, and provides that they shall be exercisable by the Youth Justice Board for England and Wales concurrently with the Secretary of State.

3. SECTIONS 102 AND 103 OF THE LEGAL AID, SENTENCING AND PUNISHMENT OF OFFENDERS ACT 2012

102 Remands to youth detention accommodation

(1) A remand to youth detention accommodation is a remand to such accommodation of a kind listed in subsection (2) as the Secretary of State directs in the child's case.

(2) Those kinds of accommodation are—

- (a) a secure children's home,
- (b) a secure training centre,
- (c) a young offender institution, and
- (d) accommodation, or accommodation of a description, for the time being specified by order under section 107(1)(e) of the Powers of Criminal Courts (Sentencing) Act 2000 (youth detention accommodation for purposes of detention and training order provisions).

(3) A child's detention in one of those kinds of accommodation pursuant to a remand to youth detention accommodation is lawful.

(4) Where a court remands a child to youth detention accommodation, the court must—

- (a) state in open court that it is of the opinion mentioned in section 98(4), 99(7), 100(4) or 101(7) (as the case may be), and
- (b) explain to the child in open court and in ordinary language why it is of that opinion.

(5) A magistrates' court must ensure a reason that it gives under subsection

(4)(b)—

- (a) is specified in the warrant of commitment, and
- (b) is entered in the register.

(6) Where a court remands a child to youth detention accommodation, the court must designate a local authority as the designated authority for the child for the purposes of—

- (a) subsection (8),
- (b) regulations under section 103 (arrangements for remands), and
- (c) section 104 (looked after child status).

(7) That authority must be—

- (a) in the case of a child who is being looked after by a local authority, that authority, and

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- (b) in any other case, the local authority in whose area it appears to the court that the child habitually resides or the offence or one of the offences was committed.

(8) Before giving a direction under subsection (1), the Secretary of State must consult the designated authority.

(9) A function of the Secretary of State under this section (other than the function of making regulations) is exercisable by the Youth Justice Board for England and Wales concurrently with the Secretary of State.

(10) The Secretary of State may by regulations provide that subsection (9) is not to apply, either generally or in relation to a particular description of case.

(11) In this Chapter “secure children’s home” means accommodation which is provided in a children’s home, within the meaning of the Care Standards Act 2000—

- (a) which provides accommodation for the purposes of restricting liberty, and
- (b) in respect of which a person is registered under Part 2 of that Act.

(12) Before the coming into force in relation to England of section 107(2) of the Health and Social Care (Community Health and Standards) Act 2003, subsection (11) has effect as if it defined “secure children’s home” in relation to England as accommodation which—

- (a) is provided in a children’s home, within the meaning of the Care Standards Act 2000, in respect of which a person is registered under Part 2 of that Act, and
- (b) is approved by the Secretary of State for the purpose of restricting the liberty of children.

Supplementary

103 Arrangements for remands

(1) The Secretary of State may make arrangements for or in connection with the accommodation in secure children’s homes, or accommodation within section 102(2)(d), of children remanded to youth detention accommodation.

(2) The Secretary of State may by regulations make provision about the recovery from the designated authority by a person mentioned in subsection

(3) of the costs of—

- (a) a child being subject to a remand to youth detention accommodation;
- (b) the exercise of functions of the kind mentioned in—
 - (i) section 80(1)(a) to (e) of the Criminal Justice Act 1991 (escort functions) read with section 92(3) of that Act, or
 - (ii) paragraph 1(1)(a) to (d) of Schedule 1 to the Criminal Justice and Public Order Act 1994 (escort functions),in relation to a child subject to such a remand.

(3) Those persons are—

- (a) the Secretary of State;
- (b) a person other than the Secretary of State by whom the accommodation pursuant to the remand to youth detention accommodation is provided or the functions are exercised (as the case may be).

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(4) The Secretary of State may make payments to a local authority for the purpose of enabling the authority—

- (a) to exercise functions under section 92(4) (duty to receive and accommodate child remanded to local authority accommodation);
- (b) to make payments pursuant to regulations under this section.

(5) A function of the Secretary of State under this section (other than the function of making regulations) is exercisable by the Youth Justice Board for England and Wales concurrently with the Secretary of State.

(6) The power to make regulations under subsection (2) includes power to make provision about the recovery of costs by the Youth Justice Board for England and Wales.

(7) The Secretary of State may by regulations provide that subsection (5), or provision made by virtue of subsection (6), is not to apply, either generally or in relation to a particular description of case.

4. Paragraph 14 of Schedule 5A to the Policing and Crime Act 2009

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155. Paragraph 14 describes a detention order which may be made following breach of an injunction.

156. *Sub-paragraph (1)* states that the young person can be detained in youth detention accommodation determined by the Secretary of State. This may be a secure training centre, a young offender institution or local authority secure accommodation (see *sub-paragraph (3)*). Decisions as to which youth detention accommodation is appropriate in a particular case will be taken jointly by the Secretary of State and by the Youth Justice Board, based upon a range of considerations (see *sub-paragraph(4)*).

157. *Sub-paragraph (2)* states that the period of detention specified in a detention order cannot exceed three months.

158. Paragraph 15 provides for the revocation of a detention order.