HOUSES OF PARLIAMENT

Joint Committee on Human Rights

Oral evidence: Legislative scrutiny of the Police, Crime, Sentencing and Courts Bill, and youth justice, HC 451

Wednesday 30 June 2021

Watch the meeting

Members present: Harriet Harman (Chair); Lord Brabazon of Tara; Joanna Cherry; Lord Dubs; Florence Eshalomi; Lord Henley; Baroness Ludford; Baroness Massey of Darwen; Angela Richardson; Dean Russell; David Simmonds; Lord Singh of Wimbledon.

Questions 11 – 22

Witnesses

I: Claudia Sturt, Chief Executive Officer, Youth Justice Board; Hazel Williamson, Chair, Association of Youth Offending Team Managers.

Examination of Witnesses

Claudia Sturt and Hazel Williamson.

Q11 **Chair:** May we turn now to our next panel of witnesses? Claudia Sturt is chief executive officer of the Youth Justice Board, and Hazel Williamson is chair of the Association of Youth Offending Team Managers. Welcome and thank you both very much indeed for coming.

May I ask a context-setting question to start, perhaps to Hazel Williamson? In your evidence to the Public Bill Committee you described how over the past 20 years youth offending teams had been dealing with "an increasingly complex group of children and young people, who have often experienced exploitation, in particular criminal exploitation, and significant trauma".

Will you expand on that? Why do you think that you are dealing with increasingly complex individuals? Is this the sort of thing that many of us see in our own constituencies, where the suggestion is that, for example, young people who have become involved in running drugs across county lines have themselves been ensnared by criminality and forced to be engaged in it? Perhaps you could set the scene for us, Hazel.

Hazel Williamson: I am delighted to be asked to join this session. It is helpful to say, "Shall we set the context?", because that is really important. I want to set the context.

My comments were about children now in the formal justice system, who are much fewer. Youth offending teams have worked really hard over the past 20 years to reduce the numbers of children and young people in the formal justice system. Those children now in the justice system are much smaller in number, but their needs are much more acute because they are a smaller cohort of children and young people.

It is helpful to understand what I mean when I talk about the acute or complex needs of this group of children and young people. Dr Alex Chard, in his report *Punishing Abuse*, published in March of this year, looked at a study in the West Midlands of 80 children known to the youth justice system. Interestingly, what was found was synonymous with what other YOT managers tell me about their experiences of the children with whom they work.

Perhaps you will indulge me for a moment while I show you what that study found for this group of children and young people. Of those 80 children, 71 had been abused as children; almost half had witnessed domestic violence; over 30% of them had witnessed, or been a victim of, child sexual exploitation; 80% had attended two or more secondary schools because of exclusion; a third of them had special educational needs; 79% were diagnosed with issues relating to physical, mental, neurodivergent or learning disability; and over 50% were referred to child and adolescent mental health services.

To put that into context, that is five times more than is found in the general population of children. Over 90% of those children had at some point been a child in need, a child in need of protection or a child in the care of the local authority. It is important that we understand the context in which we are working with children in the youth justice system at the moment. I hope that clarifies my earlier comments.

Q12 **Chair:** I do not know whether you had the opportunity to hear the previous evidence session. Danielle Manson, a barrister from Garden Court Chambers, raised the issue of recording the reasons for a child going into custody, whether on remand or sentence. What is your reaction to that? Usually, we associate taking something seriously with accountability, writing it down and giving specific reasons. Do you think that it would improve accountability in the youth justice system if the reasons for a sentence of custody were recorded?

What do you think about having a digital record of these proceedings? We can now record everything with our mobile phones very easily. I can remember the days when it was virtually impossible to do anything because of the enormous cost of transcripts, but that is now no longer an issue.

That leads to the separate question of who would have access to the transcripts, and in what circumstances. Do you not think that that would assure us that there was some way of finding out what was going on, especially when it is something so important in a child's life as being placed in custody? There should be some recording of the evidence and deliberations that led up to that, in particular when these proceedings do not happen in public.

Claudia Sturt: I thank you for inviting me to give evidence. You may or may not be aware that I am in about week two of my tenure in this role, so you will not have to dig very far to get to the end of my knowledge about the youth justice system. If there are areas where my knowledge runs out and Hazel is not able to fill the gap, the Youth Justice Board will be very happy to send a written response. On the other hand, I have spent 28 years in and around prisons, so when I talk about the harm of imprisonment I do know what I am talking about.

I am probably not the only person who was astonished to hear that currently youth court proceedings are not recorded. It seems such an obvious thing that should be happening, both for the reason given—that if you want something to be seen as important you should be recording it; otherwise, people will draw inferences that this is ephemeral and unimportant—and I suppose for quite substantial reasons about giving people good access to the ability to appeal. It must be much harder to appeal against either conviction or sentence if no record is taken of the reasons for a finding or a decision.

The potential to add to our research and evidence base—to be able to understand the sector better by having recorded reasons for decisions—is compelling. It feels to me, fundamentally, that if reasons for decisions are

not being recorded, there is an issue of fairness. It seems so obvious that that change ought to be made.

Q13 **Lord Singh of Wimbledon:** I am Indarjit Singh, Lord Singh of Wimbledon, a Cross-Bench Member of the House of Lords.

I have two questions for Claudia Sturt. The Youth Justice Board stated in the Public Bill Committee its support for the changes to remand for children. Do you react in the same way to the changes to sentencing of child offenders under Part 7?

Claudia Sturt: The very short answer to that is no, we do not. We are an evidence-led body and the evidence demonstrates that treating children as children is the most effective way to secure sustained desistance from offending. My concern about some of the changes to sentencing set out in Part 7 of the Bill is that they blur the distinction between adult and child, very much to the detriment of the child.

We question the evidence base for the measures in Part 7. For example, we would query the rationale for closer alignment of sentencing of older children to adults and the evidence supporting the benefits of longer sentences.

Generally speaking, the Youth Justice Board believes that the less time a child spends in custody, the better for that child. We are not aware of any evidence that longer sentences create better rehabilitative opportunities. The positive aspects of a child's life are interrupted by custody, and pro-criminal attitudes and identities are reinforced while they are in custody, so the idea of sentencing more heavily to emphasise the seriousness of an offence is absolutely not compatible with the child-first principle.

Longer sentences mean that there are more children in custody. They may be coming in at the same rate, but they are not leaving, and that would reverse the very positive trends in recent years towards lower numbers within the secure estate. That would be a concern to the YJB even if secure settings for children were everything we hoped they would be, but the fact that we have concerns about the safety and well-being of children in some settings points to a higher rather than lower threshold for custody.

I was particularly glad that the previous panel raised issues of disproportionality, particularly for children from black, Asian and minority-ethnic backgrounds. That is a huge area of concern for the YJB. I am particularly concerned that, although the Government's own impact assessment identified that these measures would impact black, Asian and minority-ethnic children disproportionately, they decided to override that without apparently any mitigations in place. We are keen to understand what measures could be put in place to avoid greater disproportionality, which is always and already a severe concern and priority for us in the Youth Justice Board.

Q14 **Lord Singh of Wimbledon:** That is very helpful. The UN Convention on

the Rights of the Child states under Article 40 that children accused of offending must be "treated in a manner consistent with the promotion of the child's sense of dignity and worth", and under Article 37(b) that detention must be "used only as a measure of last resort and for the shortest appropriate period of time". Do you think that the changes to sentencing within the Bill will meet these requirements?

Claudia Sturt: First, I would like to make clear that the Youth Justice Board supports the UNCRC in its entirety, and certainly Articles 40 and 37(b). I am afraid it is difficult to interpret the changes in sentencing proposed in Part 7 of the Bill as being consistent with those articles. Additionally, we have the challenge of Article 3, which requires that the best interests of the child be paramount, and the challenge of Article 4, which requires Governments to create systems and laws that uphold and promote children's rights. I would also have difficulty seeing the sentencing changes proposed in Part 7 as consistent with those two articles.

The Bill creates a distinction between younger and older children, so bringing 16 and 17 year-olds into scope for minimum terms does not treat them as individuals and does not take into account their childhood or developmental stage; it treats them as if they are adults.

That is at odds with the convention, which very clearly defines that a child is anyone under the age of 18. There is no sliding scale below the age of 18 at which it is acceptable to treat somebody as more or less of a child; it is everybody under the age of 18. Therefore, we would have significant concerns about any provision that draws a distinction between older and younger children in the way we have seen in Part 7.

We are not aware of any evidence that suggests longer sentences improve rehabilitation. We are really concerned that time in custody cements pro-criminal rather than pro-social identities and attitudes in children, which means that they are more—rather than less—likely to reoffend after release the longer they spend in custody.

If we behave in ways that reduce a child's sense of worth and belief in a constructive future and then labels them or stigmatises them, that simply serves to increase the likelihood of offending, causing harm to the public. It is not clear how a blanket increase in the length of time before automatic release directly supports rehabilitation or resettlement. It is particularly important to consider that the primary aim of the youth justice system is to prevent offending and reoffending by children. I will pause there, because I am not sure whether Hazel wants to come in.

Hazel Williamson: The other matter that we have not really touched on, which particularly resonates with me, is that the convention also says that children who have been neglected, abused or exploited should receive special help to recover physically and psychologically and reintegrate into society. The longer children spend in custody, the less chance they have of that opportunity to reintegrate into society. The previous panel expressed concern that the quality of care in youth

custody is not what we need it to be. Claudia has said similar things. We know that for children truly to reintegrate they need that support and time out in the community with specialist providers who can support them to meet all their physical and psychological needs.

Lord Singh of Wimbledon: That is very helpful.

Chair: May we turn to David Simmonds for our next question, on minimum sentences?

Q15 **David Simmonds:** How do the provisions in the Bill that would require a court to impose a minimum sentence for certain offences unless there are "exceptional circumstances" relate to the Sentencing Council guidelines, which state that, while the seriousness of the offence will be the starting point, the approach to sentencing should be individualistic and focused on the child or young person, as opposed to the offence?

Claudia Sturt: There is a distinct challenge for sentencers in balancing those provisions with the Sentencing Council guidelines. I recognise that under these provisions sentencers can depart from minimum terms in exceptional circumstances, but very clearly what we are being offered here is a default position to impose them, and that is what most sentencers will do unless they regard age, vulnerability and maturity as exceptional. It is difficult to envisage that being the case, because those are the common factors within this cohort.

The Youth Justice Board's view is that it is important to see any behaviour in context. As such, an individualistic approach is absolutely vital. Only if we understand the circumstances that lead an individual child to offend can we hope to prevent a repeat of that kind of behaviour, and minimum sentences do not lend themselves well at all to that approach. You may have an example where perhaps a child has been groomed, exploited or even coerced into carrying a knife. Do we consider those factors to be exceptional, because they are not unusual? Is it right that those aspects of the behaviour would be taken into account in sentencing, or not? In such an example is a significant minimum term sentence likely to be detrimental and increase the risk of future offending? An individualistic approach can support removing a child, for example, from the circumstances that enable their offending.

I think minimum terms are directly at odds with treating each case individually. It is hard to see how an increased number of children will not suffer increased time in custody if we have minimum terms. It is hard to see on what grounds sentencers will exempt children from those decisions.

Q16 **Chair:** Before David turns to his next question, may I follow up the issue of exceptional circumstances to get a sense of how you feel sentencers will look at them when deciding that they might not need to impose a minimum sentence, which is where exceptional circumstances come in? Being in the youth justice system is itself an exceptional circumstance. Is it an exception to what are we looking at? Is it exceptional circumstances

in relation to the generality of knife crime? Is it exceptional circumstances in relation to the particular geographical area in which it happened? I would like an understanding of these exceptional circumstances that will be so material to whether the court has the opportunity to diverge from a minimum sentence.

Claudia Sturt: I hesitate to answer a question with a question. I will try not to do that, but I cannot go much further than repeat your question, Chair. I think the Bill could be improved by offering an explanation about what would constitute an exceptional circumstance in sentencing in youth cases, given the quite powerful mitigation that should be acknowledged of immaturity and vulnerability of children. The vulnerabilities that make it much more likely that a child will offend are very far from being exceptional within the youth justice system. We see the same vulnerabilities again and again in children who offend. I would be very concerned if we were looking for something on top of those to create permission in the mind of the sentencer to depart from the minimum term.

Q17 **David Simmonds:** It has been useful to hear the discussion about exceptional circumstances. We know that many children who commit offences are victims of criminal exploitation, so would requiring courts to deviate from minimum sentences only in exceptional circumstances make it harder for courts to factor the knowledge that a child had been a victim into any sentencing decision where the right to liberty under Article 5 of ECHR was at stake?

Claudia Sturt: I think it will make it harder. As I have said previously, having minimum sentences creates real challenges for sentencers to respond to individual cases and prevent reoffending. Departing from a minimum term will require judges to exercise great moral courage and be prepared to be very heavily criticised—for example, by media commentators seeking a sense of vengeance or retribution for a child's offending.

The sentencing of children needs to rise above those considerations. We accept that the sentencing of adults contains elements of punishment and reparation, but for children it should be about ensuring that their needs are met and preventing reoffending through that route.

I think that this clause is designed to make it harder for courts to pass sentences below the minimum custodial sentence. We are talking particularly about knife crime and bladed articles here, are we not? Children's motivation for carrying knives varies greatly. A lot of children carry knives because they are afraid of what will happen if they do not carry them. Immature brains are not great at consequential thinking, risk assessment or exercising judgment, and minimum sentences do not reflect the fear that some of our children feel as the driver for carrying a knife; they do not reflect our own inability to safeguard them from high-risk situations that they are encountering at times when they might be carrying a knife.

I will pause there. As an expert practitioner on children, Hazel may very well be qualified to speak about this.

Hazel Williamson: I want to pick up the specific issue of child criminal exploitation. We have to understand it in the context of where we are and how we address child criminal exploitation. For a child to have a defence within the court arena, it would require a positive outcome that they had been exploited and trafficked under the national referral mechanism and the Modern Slavery Act. They would then be able to use that as a part of their defence within their sentencing. That would support what we would be looking at in exceptional circumstances.

However, the national referral mechanism process is not fit for children and young people, particularly those who are experiencing child criminal exploitation. Only this morning I was at a meeting where I learned that, on average, at the moment it takes 412 days for an outcome from the national referral mechanism. Somebody who has been referred on the basis that they have been trafficked due to child exploitation has to wait, on average, 412 days to get a resolution.

If we are supporting sentencers, which we do as youth offending teams—we will be completing the assessments and court reports and putting together all the mitigating and exceptional circumstances for these children—it is crucial that we get that referral outcome quickly to provide support. Currently, that does not work for these children and young people. I am concerned that the pathways that support these children are not in place to enable us to present to the court those exceptional circumstances.

I would echo what we have said. What are exceptional circumstances? As I have outlined, these are children who are five times more likely to have serious mental health conditions than are found in the general child population. That in itself is an exceptional circumstance.

Q18 **Lord Henley:** Continuing with minimum sentences, the Bill would change the starting point for tariffs for children who receive life sentences for murder, introducing more variation between younger and older children and bringing much closer alignments to sentences for adults. What do you think of this approach? Is it consistent with the Youth Justice Board's vision of a youth justice system that treats children as children?

Claudia Sturt: I think we have to decide which is the fundamental consideration. Is it the child being sentenced or the offence for which the child is being sentenced?

To answer the first part of the question, the YJB recognises the logic of the proposal for tapering tariff starting points based on age. We recognise that that proposal is attempting to address a distinction in cognitive development and maturity between younger and older children by creating separate minimum term starting points for each, but we do not support the proposal because what it fails to do is recognise either that all people under 18 years of age have a distinct set of rights and

vulnerabilities or that the nature and length of time over which children's and young adults' development takes place is not a complete process by their 18th birthday, as a previous panel member said. Given that developmental maturity is not generally reached until around 25 years of age, I would argue that if we are to have a taper—I would like to see one—it should be between the ages of 18 and 25, certainly not below the age of 18.

Q19 **Angela Richardson:** Clause 106 would increase the amount of time a child given a determinate sentence for certain serious offences spent in custody and reduce the amount of their sentence spent being monitored in the community. What effect is this likely to have on rehabilitation and reoffending? In addition, does it align with the Sentencing Council guidelines that among the purposes of the youth justice system is to "promote re-integration into society rather than to punish"?

Hazel Williamson: I think it goes to what I talked about earlier, in that the longer a child has the opportunity to be within their community, the longer they have to reintegrate. Does it align? No, it does not. For me, there are issues in transferring into the adult estate and what that looks like for children and young people. We know that often children really struggle to transfer from the children's secure estate to the adult estate. We know that the longer people have on licence, the better the opportunity they have to reintegrate.

All the research on desistance from crime shows that if people have the right support system around them, and are settled in education, training and employment, and have good accommodation, that is what will possibly prevent them reoffending in future. I think Laura was right when she pointed out that some of these children will not receive their leaving-care rights. Some of them could have those rights until they are 21, or 24 in the case of a child with disability. A number of them will miss out on some of those rights because they will be spending a longer time in custody. There will be fewer wraparound services for children.

Q20 **Angela Richardson:** I will move on to a question about right to review. The justification given for reducing the right to review of someone sentenced to detention at Her Majesty's pleasure is that the process "can be extremely distressing for the families of victims" who are contacted every time a review is initiated. Do you think that the process is unreasonably and unnecessarily distressing for the families of victims?

In addition, is there anything that could be done other than denying an offender the right to review—an option that currently only 10% take up—potentially engaging their right to liberty and security protected under Article 5 of ECHR?

Claudia Sturt: The first thing I would like to acknowledge is that the grief suffered by bereaved families as a result of crime can be absolutely devastating. No sentence, no matter how long, is guaranteed to relieve the pain of losing a loved one. Of course, victims' families deserve the greatest possible empathy, compassion and space to work through a

multitude of complex thoughts and feelings that they necessarily will have, and they should receive professional support to help them process and recover from the trauma of their loss.

To provide, I hope, some helpful context about cases of detention at Her Majesty's pleasure, they are very few and far between. I do not have concrete figures for the number of children who are subject to an HMP life sentence, but I think that we have averaged fewer than 10 children a year who have received that sentence, an extended sentence or anything other than a detention training order. We are talking about small handfuls of children. Of that small cohort, about 10% will apply for a review of their tariff, so we are talking about tiny numbers. Incidentally, they tend not to apply for a review of their tariff because there is an element of jeopardy involved in that because a tariff can be increased as well as reduced, so in a sense it is a case of stick or twist for a child. Often, they are frightened to seek a review in case their situation gets worse.

Those numbers are important in framing the context of the question about distressed or bereaved families. I note the view of the Howard League that, while these reviews are infrequent, it is for some children and former child offenders a really important source of hope about the future and something to focus their minds on positive rehabilitative work. It also represents an important check and balance for those very difficult sentencing decisions given the changes at work in a child's life and brain and social development.

Bearing in mind that the reason given for curtailing rights in Part 7 of this Bill is not about the appropriateness of the tariff but to prevent distress to victims' families, perhaps an alternative approach that minimises such distress but retains opportunities for review would be better. An example might be to establish with bereaved families how often they wish to be contacted and then to provide them with periodic updates rather than updates triggered by processes. In that way we can take into account their preferences for frequency. We need to make sure that contact with those families is high quality, empathetic and honest, because those are the factors that will help to promote healing for those families within this process, but I feel very strongly that removing opportunities for review of tariff lengths is not the solution to dealing with the grief and distress of bereaved families.

Hazel Williamson: If I may make an additional comment about addressing victims' needs, youth offending teams will work with all victims of youth crime. We have specialist victim officers. It is about that interaction and support that you give to any victim of crime. If that is done really well, it enables healing for the victim as well, so it is about how we learn across the whole justice system, not just youth justice, to do victim work really well and support them.

Often, that gives more healing to our victims than not having that contact; it is often much better for our victims to be able to work with a specialist worker to understand why this offence has happened to them

and receive some kind of restoration, whether that is a direct meeting with the person who committed the offence or through some other means. That has real value for victims of crime and we need to try to harness it across the whole justice system.

Q21 **Lord Brabazon of Tara:** I want to turn to the role of the Secretary of State. Under the changes to detention at Her Majesty's pleasure reviews in the Bill, the Secretary of State would retain a role, rejecting applications that he considers to be "frivolous or vexatious". Should the Secretary of State be making this decision rather than the courts?

Claudia Sturt: It is really an unenviable position for any Secretary of State. In answering the question, one is bound to ask: what purpose is served by requiring certain decisions to be taken by Ministers rather than expert practitioners or officials? I come to the conclusion that it is about where there is a question of public acceptability in the outcome. Within the briefing for this Bill we have the Secretary of State's own words: "These reforms will restore the public's faith that the system will keep dangerous criminals off the streets for longer". I know from my previous role that many of the sentencing changes in the Bill are designed to protect the public from violent extremists and other very serious threats, but where the Bill includes children the YJB is not able to support such provisions.

The purposes of sentencing adults and children are not the same. Sentencing adults serves purposes that include punishment and reparation. Those ideas are absent from sentencing guidelines for children, which should be about the prevention of offending and welfare of the child. Most reasonable adults see and accept that meeting a child's needs is the best way to ensure a positive crime-free life, but that consensus is at times put under strain of heightened emotion, such as a murder trial involving a child, at which point the public mood often becomes darker and more vengeful.

For that reason, I think that the position of any Secretary of State in making those decisions is really difficult. For any elected representative, there will be pressure to make a publicly acceptable decision rather than focusing, as she or he is bound to do, on the rights and best interests of a child who has offended, however unpopular that child may be. I think that it would be easier for the courts or officials to make a child-centred decision where it is likely to attract a hostile media or public reaction than it is for Ministers. I recognise there may be a greater argument for the Secretary of State to retain this role where she or he is also a lawyer, because being a lawyer brings with it the discipline and habit of considering evidence and placing statutory duties above personal preferences.

Chair: You mean a law officer rather than lawyer, do you not? Everybody with a statutory obligation, such as a Minister, has a duty to take into account the law, think logically and look at evidence, but law officers have a special role in separating themselves from political considerations.

Claudia Sturt: I meant just a lawyer, but "law officer" would have been a much better answer.

Q22 **Joanna Cherry:** I am Member of Parliament for Edinburgh South West.

May I ask you the question that I put to the previous panel members: do you think that incorporating the United Nations Convention on the Rights of the Child into domestic law is a good idea? If so, how do you think that would affect the rights of children caught up in the criminal justice system? I preface that with the comment that recently a Bill was passed by the Scottish Parliament to incorporate this convention into the domestic law of Scotland, but it is subject to a challenge in the Supreme Court, not on the issue of incorporation but on whether it strays into reserved powers rather than devolved powers. I am interested generally in whether you think that it would be a good idea to incorporate it across the United Kingdom. If you think that it would be a good idea, why? If not, why not?

Hazel Williamson: Yes, of course. Absolutely. Why would we not? That would be my first comment.

To expand on that, I have already said that the children we work with in the formal justice system are those who have some of the most traumatic experiences within their lives. One of the hardest jobs being a practitioner in the youth offending service is to be in court with a child whom you know has experienced significant trauma and does not have the support of family, and you are trying to argue for the minimum sentence, or the right sentence, for that child. I think that to enshrine this in UK law would give us more strings to our bow, if you like, to be able to argue that we need to do things in the best interests of children, so why would we not?

Claudia Sturt: I am afraid that I will be very non-contentious with the rest of the panel members here. My answer is also yes, of course. Why would we not? I am particularly drawn to Article 4 as an illustration. Article 4 requires that all Governments put in place processes and laws that promote the best interests of children and ensure their fair treatment. Enshrining that in domestic law would be a really important driver for better outcomes for children not just in the justice system but in all areas of public policy. The better the provision for meeting children's needs before they ever commit an offence, the less likely they are to commit offences and the more likely they are to live constructive, positive lives and never trouble the justice system at all.

There is something really powerful about enshrining in law things that we think are important. It is my understanding that the UNCRC, while not directly incorporated into legislation, is still legally binding on the UK as an international treaty. I stand to be corrected on that. We are already bound to give it cognisance, but I would love to see its status further enhanced. Its incorporation into law would also be good for our standing internationally. It would help to build on our strong reputation for law and justice, which in turn would help us to influence other priority interests in human rights. If we are seen as being on the front foot in relation to our

observation of human rights legislation, it makes it easier for us to drive other priority outcomes through human rights legislation as well; it gives us a greater opportunity to take the moral high ground when dealing internationally, which I would also welcome.

Joanna Cherry: You are absolutely right when you say that the United Kingdom is already bound by it, because we have signed up to it as a state. The difference that incorporation into domestic law makes is that children and young people and their representatives can go to the domestic courts of the United Kingdom to enforce their rights under the UNCRC. For example, under the Scottish Bill, the courts can strike down legislation that is incompatible with the United Nations Convention on the Rights of the Child and make incompatibility declarations in relation to legislation. It is very similar to what we can do across the UK under the Human Rights Act, which gives people the ability to enforce their rights under the EHRC in their home court rather than having to go to an international court.

Do you think it would be useful in the sense that it would give young people and their representatives the ability to enforce their rights in the youth court, for example? It might assist in getting proceedings recorded, for example.

Claudia Sturt: I think it would be extremely valuable. One thing that strikes me just listening to evidence from the previous panel and some of my own observations is that youth justice is too often treated as justice light, or the soft and easy end of the justice spectrum. I think that the non-recording of youth court proceedings is an illustration of that. We also see that children do not always receive the quality of advocacy in the youth courts that adults do in adult courts. Youth cases are too often seen as good training ground for inexperienced advocates, many of whom have not had any specialist training.

If we want to be serious about children's rights and give them an opportunity to have greater leverage in ensuring that their rights are met, enshrining or incorporating the UNCRC in the legislation would be a really important step.

I do not think we have anything to fear from it. The articles of the UNCRC are not outrageous. There is nothing in the articles that we would regard as uncomfortable or that we would not want to see happen. It is not contentious stuff; they are obvious things that we should be wanting to do. To give children the ability to require us to meet their needs should not take us any further than we would want to go anyway.

Baroness Massey of Darwen: I am not a lawyer. There are plenty of wonderful lawyers in the room, but I have been informed, I think reliably, that the UNCRC is not legally binding on Governments. Obviously, it would be legally binding if it was incorporated into the laws of Wales, Scotland and Northern Ireland, but, as I understand it—if Alex is around, he may know—it is not legally binding.

Chair: We can go back to Joanna to clarify the difference between a treaty obligation that a state has undertaken and an enforceable right.

Joanna Cherry: In a layperson's terms, the difference is that the United Kingdom is a signatory state to the convention, so it has accepted this as a matter of international law. As Claudia put it, this is not contentious; it is something that the UK can embrace, but, until such time as it is incorporated into our domestic law, children, their parents, their advisers and carers cannot rely upon it in a court directly. For example, before the Human Rights Act was brought in in 1998 the UK had signed the European Convention on Human Rights, so we were bound by it internationally, but people could not enforce their rights under it in the domestic courts of the UK until the Human Rights Act came along, and the Scotland Act incorporated it into the devolved settlement.

It would give children and their advisers the ability to say to a court, for example, "I object to what's happening, because it is contrary to Article 4 of the UN convention, and I want this court to do something about it". It has to do so, because it is part of our domestic law, rather than having to go to an international body to realise the child's rights.

Chair: Thank you very much indeed to our two witnesses, Claudia Sturt and Hazel Williamson. May I acknowledge that you are both working in what is a very problematic but important area of public policy? I would like to thank you for your work, as well as for your evidence to this committee.

Hazel Williamson: May I also say thank you to all of you for working in a very rewarding system?