

efficiency, cost-effectiveness and strategic management.

The rest of my talk today will be devoted to describing the most significant changes to youth justice which **have been** introduced and how these changes are working out in practice. In addition, I will try to draw attention to some important issues which these new measures raise.

### The new measures

The Government's programme of reform of the youth justice system can be divided into **five** key areas:

- The widening of the notion of criminal responsibility;
- The insertion of restorative justice;
- The development of a strategic approach to managing youth justice;
- **The tightening of social control; and**
- **Investing in** prevention and early intervention.

I will discuss each in turn.

#### 1. The widening of criminal responsibility

There are **four** main ways in which the new legislation **changed** the notion of criminal responsibility. Firstly, the Act **abolished** the notion of *doli incapax*. **Secondly, it introduced two new orders – the child safety order and local child curfews – which brought those under the age of criminal responsibility into the ambit of the criminal law.** **Thirdly** it **increased** the extent to which parents are held to account for the offending of their children by introducing a new sentence, the Parenting Order. And **fourthly** it **introduced** a new Anti-Social Behaviour Order, which uses the civil law to boost the powers of the police and others to combat abusive, disruptive and intimidating behaviour. Let me first explain what *doli incapax* is and what its abolition means.

##### (i) The abolition of *doli incapax*

Before the introduction of the Crime and Disorder Act last year, where a juvenile aged 10 to 13 was convicted of a criminal offence,

the prosecution had to show that he not only intended to commit the offence, but in so doing appreciated that what he did was seriously wrong. If the court decided that the offender was not able to distinguish right from wrong, then he/she was deemed *doli incapax*.

The idea behind *doli incapax* is to allow for the fact that a child's understanding, knowledge and ability to reason is not the same as that of a fully grown adult. Consequently, it is argued that they are not as criminally responsible as adults.

The Crime and Disorder Act abolished *doli incapax* on the grounds that it is extremely difficult (if not impossible in some cases) to provide the necessary evidence to show that the defendant is of normal mental development for his age and that he knew that his act was seriously wrong. The government also believed that abolishing *doli incapax* would reduce delays and ensure that appropriate interventions to prevent further offending would not be missed.

Since the vast majority of children who appear before the Youth Court plead guilty, the issue of *doli incapax* rarely arises in practice. But the question remains as to whether the **principle** itself matters. In most European countries, children under the age of 14 are not held criminally responsible for any of their acts and in some (e.g. France, Spain and Germany), the principle of limited responsibility applies to children up to the age of 18. Do children as young as 10 always know right from wrong and should they be held as accountable for their actions as older children?

##### (ii) Local child curfews and the child safety order

**The second way in which the legislation extends the notion of responsibility is through the introduction of new measures aimed at those under 10 years of age.** The Crime and Disorder Act **provides** new powers for local authorities and the police to set up curfew schemes. These powers are intended to combat the problem of unsupervised children behaving anti-socially in certain public places after 9.00pm. Before