



THE STANDING COMMITTEE FOR YOUTH JUSTICE

The Funding of Custody for Children:

Devolving the Budget

July 2009

This report examines the current arrangements for the funding of custody for children in England and Wales, particularly in the context of the way those arrangements fail to incentivise local authorities to seek to minimize the use of custody for children. The report analyses options for reform. Conclusions and recommendations are drawn, and implementation issues are examined for taking the proposals forward. The Standing Committee for Youth Justice believes that implementation of these proposals will lead to a significant reduction in the level of children's custody in England and Wales.

The **Standing Committee for Youth Justice (SCYJ)** is a membership body which:

- Provides a forum for organisations, primarily in the non-statutory sector, working to promote the welfare of children who become engaged in the youth justice system; and
- Advocates a child-focussed youth justice system that promotes the integration of such children into society and thus serves the best interests of the children themselves and the community at large.

Members are: Action for Children, Association of YOT Managers, Barnardo's, Catch22, Children Law UK/TACT, The Children's Society, Children's Rights Alliance for England, Council for Disabled Children, The Howard League for Penal Reform, Just for Kids Law, JUSTICE, Nacro, National Youth Agency (NYA), National Association for Youth Justice (NAYJ), NCB, NSPCC, The Prince's Trust, Prison Reform Trust, Sainsbury Centre for Mental Health, Secure Accommodation Network, SOVA and VOICE.

The contents of this document do not necessarily reflect the views of all member organisations.

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1. Executive summary

- 1.1 It is well known that custody for children in England and Wales is unacceptably high. (para 2.2)
- 1.2 One of the factors that sustains this position is the perverse incentive, that because custody is funded centrally, it is from a local authority point of view, a 'free good' for the local authority. There is no financial incentive for the local authority to seek to prevent it. (paras 2.3 -2.6)
- 1.3 Arrangements for children's custody have been reformed over recent years, giving powers to the Youth Justice Board for commissioning, funding and placement arrangements for children's custody. (Section 3)
- 1.4 While these reforms have brought some benefits, they have not succeeded in achieving the radical reform that was hoped for. Certain features of the present system should be retained in any new system, in particular an element of central commissioning and placement. (paras 3.23 - 3.35)
- 1.5 However, some budget devolution should take place and local commissioning should be stimulated (para 3.35)
- 1.6 The most suitable recipient of a devolved budget is a Children's Trust (paras 4.1 – 4.10)
- 1.7 The most suitable way of starting the process would be for notional budgets to be allocated with refund/recharge mechanisms (paras 4.12 - 4.20)
- 1.8 The most suitable formula for devolving the budget would be one based on aggregate children's welfare needs, rather than historic use of custody. (paras 4.22- 4.27)

- 1.9 The new system should be introduced incrementally, on a geographical basis. (paras 4.28 - 4.32)
- 1.10 Children's Trusts who participate in the scheme should have adequate preparation time, and should take a number of other measures, to ensure the success of this venture. (Section 5)
- 1.11 There should be some 'bridging' funding provided by central government to help during the transitional period (paras 4.17, 4.21)
- 1.12 The recommendations of this report are summarised in Section 6.
- 1.13 Overall, we believe that with adequate preparation that is strategically co-ordinated, and a careful approach to risk management, Children's Trusts will be able to achieve a significant reduction of children's custody and, with new money made available through the devolution process, move to provision of services that better meet the needs of disadvantaged children in the Trust area. (Section 5)

2. **Introduction**

2.1 The Standing Committee for Youth Justice (SCYJ) is an umbrella body, which includes the main children's charities and penal reform groups in the country, and such bodies as the Association of Youth Offending Team (Yot) Managers and the Secure Accommodation Network. SCYJ campaigns for reform of the youth justice system.¹

2.2 SCYJ has long been concerned about the unacceptably high level of children's custody in this country. It is well known that

- On a proportional basis we have one of the highest rates of children's custody in Europe;
- Only 31% of children in prison are charged with or convicted of violent or sexual offences;²
- Custody is notoriously ineffective in reducing re-offending, which is the principal aim of the youth justice system;
- Custody is extremely expensive and uses about two thirds of the Youth Justice Board (YJB) budget, money which would be much more productively spent in other ways;
- Custody may often be experienced as abusive by children, particularly those who have suffered abuse prior to their custodial experience. An unpublished report by the YJB³ spells out the links between abuse and serious offending, and makes some helpful suggestions about addressing the issue.

2.2 One of the factors that sustain the high level of custody is that from a local authority point of view, custody is a free good. It is funded centrally from budgets held by the YJB. The local authority has no financial incentive to try to keep children out of custody, and indeed the

¹ The SCYJ website scyj.org.uk will be going live in August 2009,

² Ministry of Justice, 'Population in Custody Monthly Tables April 2009', Table 2.

³ *Past Abuse Suffered by Children in Custody – a Way Forward*. YJB, November 2006. Available on The Howard League for Penal Reform website.

fact that a difficult child, causing a lot of trouble and using a lot of local authority resources, is put into custody for a number of months maybe viewed as a welcome respite by the local authority.

2.3 This is clearly a perverse financial incentive in terms of the ambition to reduce custody. SCYJ decided to examine the issue in more detail, and prepare a report on the matter. This report explores options for devolving all or part of the custodial budget in order to reverse these perverse incentives.

2.4 We recognise of course that this is not the only way to tackle the problem of custody. It is not a magic bullet. There are other approaches that SCYJ promotes and encourages which are just as important. These include

- Raising the age of criminal responsibility;
- The establishment of a custody threshold in law, which would need to be passed every time a child is sentenced to custody. This could be seen as defining the UNCRC concept of ‘last resort’ in law. SCYJ undertook considerable work to define and establish such a threshold in the passage of the Criminal Justice and Immigration Bill (now an Act) in 2008, and we continue to campaign for such a threshold;⁴
- Promotion of a less hostile and punitive approach to children in this country that is reflected by many sections of the media and government.

2.5 However we regard the reversal of existing perverse financial incentives as one important piece of the jigsaw of custody reduction.

⁴ The custody threshold for children proposed by SCYJ in 2008 is that:

A court shall only pass a sentence of custody on a person under the age of 18 as a measure of last resort and where:

- (a) The offence committed caused or could reasonably have been expected to cause serious physical or psychological harm to another or others, and
- (b) A custodial sentence is necessary to protect the public from a demonstrable and imminent risk of serious physical or psychological harm.

- 2.6 In the government's Youth Crime Action Plan (YCAP) published in July 2008, the idea of 'making local authorities responsible for the full cost of court ordered secured remands' is mooted. While we welcome this initiative, we think it is too narrow. We think the government should consider devolving the costs of all custody for children and not merely this narrow fragment, which accounts for only about 7.5% percent of the budget.⁵ The question is asked in YCAP 'whether in the long term local authorities should be responsible for the placement and funding of custodial placements'. We do not think that this debate should be delayed.
- 2.7 Moreover, proposals are being put forward to devolve responsibility for educational provision for children held in detention.⁶ This development fits well philosophically with our proposals.
- 2.8 Frances Done, Chair of the YJB, has indicated that she supports the idea of devolving custody budgets to local bodies. John Drew, the YJB Chief Executive, has also endorsed this proposal. There is interest within government for this approach and also within the Conservative Party.
- 2.9 We have looked for examples from other countries where a devolved approach to funding children's custody has been attempted with some success in driving down the level of custody. Barnardo's has looked at the experience in different states in the USA. The Barnardo's report on this is attached at Appendix 1.
- 2.10 This paper will:

⁵ This estimate is based on the assumption that about 25% of children in SCHs or STCs are likely to be on secure remands. Therefore it is about 25% of the STC and SCH budgets (£M93) that will be used for secure remands. This amount constitutes about 7.5% of the total £M305.

⁶ Clause 47 of the Apprenticeship, Skills, Children and Learning Bill, currently before Parliament.

- Examine current arrangements for children’s custody and its funding;
- Conduct an analysis of the strengths and weaknesses of these arrangements;
- Identify options for reform in terms of
 - What should be devolved
 - To whom should it be devolved
 - What should be the formula for devolving it
 - Consideration of an incremental approach;
- Examine implementation issues;
- Make recommendations for the way forward.

Terms of reference

2.11 The terms of reference for this report are:

- To critically examine the current arrangements for the funding of custody for children in England and Wales;
- To identify and evaluate possible alternative arrangements;
- To make recommendations about improving current arrangements.

3. Analysis of current arrangements

3.1 In 1997, the incoming Labour government thought the arrangements they inherited for children's custody were incoherent and fragmented, and they undertook significant reform. In particular the new government was concerned that:

- There was no overall strategic approach to custody for children and there were no standards or expectations of the kind of services that should be provided;
- There was no idea of 'value for money' of the services that were being provided, and no coherent approach to financial management of the arrangements;
- Children were being held in the same establishments as adults (in YOIs children under 18 were routinely held in institutions that held people up to the age of 21).

3.2 The new government brought into being the Youth Justice Board and tasked it with (among other things) reforming what came to be known as the Juvenile Secure Estate (JSE). The Board was to develop a commissioning strategy, which would rationalise and integrate the JSE. The budget for purchasing secure accommodation for children was passed to the YJB. The government made available significant further funding (about £50M) principally for improving prison service arrangements for children.

3.3 The main shape of current arrangements came into place in April 2000 and the main characteristics of these new arrangements will be described shortly.

3.4 The main changes that the YJB undertook were:

- They developed more or less discrete arrangements for children in the prison service, whereby some twelve YOIs for children (people under the age of 18) were established;
- They entered contractual arrangements with various providers. These arrangements covered volume of places to be purchased, price to be paid, and standards that the Board expected to be met;
- They put in place monitoring arrangements to make judgements about the extent to which the declared standards were or were not being met;
- The YJB took on overall financial responsibility for the funding of children's custody across the board (apart from remands to secure accommodation – see para 3.20);
- The YJB established a national placement system whereby the placement for a child sentenced or remanded to any type of custody would be determined by the YJB placement team on the basis of needs and geography.

3.5 There will doubtless be considerable difference in opinion as to the extent to which this reform programme was successful and met the original objectives. But it is certainly the case that considerable change was achieved. What probably fatally injured the reform objectives was the burgeoning number of children flowing into custody, which put huge pressure on facilities and staff and really prevented the kind of genuine radical reform that had been hoped for.

The Juvenile Secure Estate

3.6 The JSE now consists of:

- Young Offender Institutions (YOIs) run mainly but not entirely by the Prison Service. 2 YOIs are run by private companies. No child under the age of 15 is held in a YOI;

- Secure Training Centres (STCs) of which there are currently four. They are managed by private companies on long term contracts, for profit;
- Secure Children’s Homes (SCHs), which are generally (but not entirely) managed by Local Authorities. These can also be used to care for children who are being held securely for ‘welfare reasons’ under section 25 of the Children Act 1989 as well as children who are being held for criminal justice reasons. The use of this sector has dwindled over recent years as the STC sector has grown.

3.7 Generally speaking, boys of 15 or over will be held in YOIs, and younger boys in SCHs or STCs. 17 year old girls are likely to be held in YOIs and younger girls in SCHs or STCs. However, significant numbers of those sent to YOIs will have been assessed as too vulnerable to cope with the regime and should be accommodated in SCHs.

3.8 The volume of places provided at April 2008, and the cost of each type of provision is shown in the table below.⁷

Volumes and Costs of Juvenile Secure Estate As At April 2008

	Places	No. of Units	Ave Size of Unit	Unit Cost in £K/year	Total Cost in £M/year
YOIs	2951	17	174	72.0	212.5
STCs	301	4	75	156.1	47.0
SCHs	218	14	16	211.9	46.2
Total/Ave	3470	35	99	88.1	305.7

⁷ YJB Corporate Plan 2008>11, Business Plan 2008/09

- 3.9 The figures above were taken from the YJB report referred to at footnote 7. However since the publication of that report, 4 SCHs have been refused further contracts by the YJB and two of these may close. A Prison Service 360 bedded unit is being planned at Glen Parva.
- 3.10 SCYJ considers that if children really need to be in custody for genuine reasons of public protection, the most suitable accommodation is an SCH. We regard the direction of development of the JSE, away from SCHs and towards large non-child-centred institutions provided by the Prison Service, to be wholly deplorable.
- 3.11 Nevertheless, we believe that national commissioning at some level should continue, but that there should be encouragement and development of local commissioning arrangements. Section 34 of the Offender Management Act 2007 allows children sentenced to DTOs to be placed in non-custodial institutions (see paras 3.14, 3.17 and 3.35). This power has never been used. We believe there is considerable scope for local commissioning to develop, taking advantage of this power.
- 3.12 We will now describe in more detail the current arrangements for children sentenced or remanded to a custodial facility

Children sentenced to custody

- 3.13 The main custodial sentence available for children is the Detention and Training Order (DTO). This is available for children aged 12 to 17. It may be served in any of the three sectors of the secure estate.
- 3.14 The sentence may also now (since the Offender Management Act 2007), see 3.11) be served in other institutions, not necessarily secure, which the Secretary of State deems fit. This power has never been used. Secondary legislation would be required to implement it, but this would be quick and straightforward to arrange.

- 3.15 Children convicted of serious crimes may be sentenced and detained under Sections 90 and 91 of the Powers of Criminal Courts (Sentencing) Act 2000. Children as young as 10 may be sentenced to custody under these provisions. They may be held in any accommodation which the Secretary of State deems fit, (section 92 of the same Act) but this almost invariably means the JSE. Welfare-oriented placements outside the JSE are almost never made.
- 3.16 Children assessed as dangerous may be sentenced and detained under sections 226 and 228 of the Criminal Justice Act 2003. Again they may be held in any accommodation which the Secretary of State deems fit (section 235 of the same Act), but again this means the JSE, and welfare-oriented placements outside the JSE have never been made.
- 3.17 The power to place outside the JSE is available for all sentenced children. SCYJ believes this power should be used and that its use would open the possibility for the development of significant local commissioning.

Remands to custody

- 3.18 Most children over the age of 15 are remanded to a YOI. Strictly speaking, they should be held separately from sentenced children, but in practice this usually does not happen.
- 3.19 Younger children may be remanded to an SCH or STC. This is a so-called "court ordered secure remand" (COSR). Boys between 12 and 14 (or up to 16 if vulnerable) and 15-16 year old girls may be so remanded.
- 3.20 In 1999, when this power became available, local authorities were concerned that, because these placements are extremely expensive,

local authorities would be vulnerable to very significant costs over which they would have little control. A hybrid funding arrangement was therefore agreed whereby the government would fund two thirds of the cost and local authorities would fund one third of it. It is of course this arrangement that the YCAP is proposing to change, to restore the full cost to local authorities.

3.21 It is worth mentioning that local authorities have to pick up the often substantial costs of transporting the child/young person between court and the secure accommodation.

3.22 It is also worth mentioning that children can be remanded by the court to ordinary non-secure local authority accommodation (this includes the possibility of the local authority returning the child to his/her own home). These arrangements would of course be locally funded. These remands have greatly reduced over recent years and are now seldom used.

Main advantages of the current arrangements

3.23 There is an overall national strategic commissioning approach to children's custody, in terms of volume, (and volume prediction) and pricing (although of course the effectiveness of these measures may be questioned)

3.24 A standards framework for services that are provided has been established and these standards are monitored (again, the effectiveness of these arrangements may be questionable).

3.25 There is a national placements system that seeks to match placement to need.

3.26 There is a mechanism for financial control of the system, managed by the YJB.

Main problems of the current arrangements

- 3.27 The high and burgeoning custodial population has made impossible the improvements in quality of service provision that had been hoped for from the YJB reforms.
- 3.28 Despite the best efforts to reform prison service accommodation it is still based on an adult model, and is adult-oriented. It is entirely unsuitable for caring for children. Marginal improvements have been made, but they are superficial.⁸
- 3.29 There are serious concerns about the quality and safety of provision of custody by STCs.⁹
- 3.30 The SCH sector of the secure estate (which we believe is the most suitable for children's custody) has been dwindling (see paras 3.9 – 3.10).
- 3.31 The impact of the custodial experience on reoffending is negligible. Indeed, we believe custody exacerbates reoffending. The latest Ministry of Justice figures tell us that 75% of under 18 year olds are re-convicted within a year of leaving custody, and that custody is less effective in reducing re-offending than any community disposal.¹⁰
- 3.32 Children's Trusts, local authorities and Yots have almost no influence over the type of secure accommodation that is commissioned for children within the secure estate.

⁸ See Children and Young People Now, 30.1.08 'Youth Prisons no Place for Children' Jon Fayle and Rob Allen.

<http://www.cypnow.co.uk/news/779945/Analysis-Youth-justice---Youth-prisons-no-place-children/>

⁹ eg The Carlile Enquiry (2006), The Howard League for Penal Reform.

¹⁰ <http://www.justice.gov.uk/publications/docs/reoffending-juveniles-2007.pdf>

- 3.33 Because local authorities make no contribution to the cost of children sentenced to custody and only a small contribution to the cost of children remanded to custody, there is no financial incentive upon them to try and reduce the level of children's custody and provide services that would reduce the need for custody.
- 3.34 It is of course this last problem that this paper primarily seeks to address.

Discussion

- 3.35 Any new arrangements that are introduced should retain the advantages of the current arrangements. Particularly, elements of the overall national strategic approach should be largely retained. This would mean that:
- Elements of national commissioning should continue, but local (or possibly regional) commissioning should be promoted and encouraged. Placements outside the JSE should be stimulated, using the Offender Management Act 2007 (see paras 3.11 and 3.14);
 - National placement arrangements should continue, except where local arrangements for particular non custodial placements are agreed;
 - Centrally held budgets should be wholly or partly devolved to local bodies. (We say local bodies rather than authorities because it is by no means clear to us that local authorities should be the recipients of devolved budgets – see paras 4.3 - 4.10 for further discussion);
 - The local bodies would purchase placements through the central commissioner, apart from local/regional arrangements alluded to above.

3.36 Options for devolution of the budget will be considered in the next section.

4. Options for reform

4.1 There are a number of different issues that need to be considered in relation to proposals for budget devolution. These include:

- To whom should the budget be devolved?
- What is to be devolved? Is it the whole custody budget or part of it?
- What should be the formula for devolving the budget?
- Should the approach be an incremental one or one that is across the board?

4.2 We shall address these issues in turn below.

To whom should the budget be devolved?

4.3 It appears that there are a number of options to be considered here. These include:

- Courts;
- Youth Offending Teams;
- Local Authorities;
- Children's Trusts;
- Groupings of the above.

Courts

4.4 There is some logic in proposing that the budget be devolved to courts. It would mean that the body that makes the decisions about incurring expenditure from the budget would also be responsible for controlling the budget. However, we do not believe it would be possible to persuade the courts and the judiciary, to agree to have their decision-making fettered in this way. Also the courts are not in a good position to take a holistic view

about which custody avoidance services should be provided. We do not regard this as a realistic option.

Youth Offending Teams

4.5 Youth Offending Teams (Yots) were considered as an option. There is some logic in the proposal since Yots are generally responsible for providing alternatives to custody to the courts. However we considered that this proposal represents far too narrow a conception of custody avoidance services, and will not encourage the development of early prevention services for children in need (who may be unknown to the Yot) and at risk of custody when they become older. It will not encourage a co-ordinated strategic approach by all service providers.

Local authorities

4.6 Local authorities (LAs) were considered as an option. This would certainly encourage a more holistic view of children in need than devolution to Yots. However, we consider that LAs are still too narrow a body to be a suitable recipient of the budget. This is because they do not include all of the services that may be deployed to avoid the incarceration of children, most obviously health and mental health services. In order to maximise a holistic approach to thinking about these custody-avoiding services, it is desirable that the budget should be devolved to a body incorporating all such services. The most obvious candidate is a Children's Trust.

Children's Trusts

4.7 Children's Trusts were set up following the Children Act 2004. Their purpose is to improve the wellbeing of all children in the area covered by the Trust by improving planning and co-ordination of services. A Trust should be a partnership of key agencies providing services for children, led by the local authority.

- 4.8 The Apprenticeship, Skills, Children and Learning Bill currently before Parliament proposes to strengthen Trust arrangements by putting them on a statutory footing with extended responsibilities to include developing, publishing and monitoring a Children and Young Persons plan. Statutory members of Children's Trusts (who are under a duty to co-operate) include District Councils, Police, Probation, the Yot, the Strategic Health Authority, the Primary Care Trust, and Connexions Partnerships.
- 4.9 Trusts are responsible for a wide array of services that might be relevant for custody avoidance, and would be capable of providing a holistic basis for thinking about custody and custody prevention.
- 4.10 In our view, Children's Trusts would clearly be the most suitable recipient of the devolved budget.

Groupings of local bodies

- 4.11 We gave some consideration to groupings of local bodies. The most obvious option is government regions. However, these are really strategic bodies rather than funding/ budget holding bodies. We do not recommend such aggregation, although of course if groupings of holders of custody budgets were to choose to pool them, that would be a matter for them.

What should be devolved?

- 4.12 Since we believe that central commissioning should continue at some level, the question arose of whether it was practical to devolve the whole budget of £M305 to local bodies, or part of it. Various options were considered:

Whole budget devolution

4.13 Should the whole budget of £305M be devolved to local bodies? This appears highly risky and would place the commissioning authority in a very difficult position with no money to back up commissioning arrangements it would seek to negotiate. We do not recommend this course of action.

Part budget devolution

4.14 Devolve part of the budget (say half) to local bodies. Each custodial placement would be paid for partly locally, and partly centrally. This would to some extent mitigate the risk by sharing it between the commissioning authority and the local purchaser. However, this model has the far reaching disadvantage that the local body, when considering providing a service that is an alternative to custody, would only have a proportion of the unit cost of the custodial placement to use to provide alternative services. This would distort the incentives that should arise from saving the full cost of custody. We do not recommend this model.

Notional budget with refund/recharge mechanism

4.15 In this model, the budget would not be devolved in real terms, but a *notional* budget would be allocated to each local body participating in the scheme. If the cost of custody that body uses over the accounting period is less than the notional budget, the YJB would pass on the underspend to that body. If the cost of custody that body uses over the accounting period exceeds the notional budget, the YJB would recharge the local body the amount of the overspend.

4.16 We would suggest that the accounting period for such an arrangement should be longer than a year (say 3 years), in order to smooth out the potentially difficult peaks and troughs of demand that might occur.

4.17 A difficulty with this model is that the local body will have no initial budget to develop custody avoidance services, and it points to the need of having bridging funding provided by central government, to kick start the process.

Combination of free and paid-for places

4.18 In this model, a number of 'free' places would be allocated to each local body, which would be paid for centrally. These places would be distributed to the local bodies according to an agreed formula (see paras 4.22 to 4.27). Places above that number would be paid for by the local body from the remainder of the budget which would be distributed according to the same formula. We believe there is a similar mechanism for funding some secure mental health places for children.

Discussion

4.19 There are strengths and weaknesses of each of the above models. On balance we believe a notional budget with refund/recharge is the most promising approach because:

- it is administratively simple;
- it does not involve the actual transfer of large amounts of money;
- it contains real carrots and sticks. It gives local bodies the concrete prospect of acquiring funding to spend on more helpful services, but also the risk of financial penalty for failing to make progress;
- it is suitable for introducing on an incremental basis, which we shall argue at paras 3.27 to 3.31 is the approach that should be adopted.

4.20 We recommend therefore that this model should be adopted for taking the matter forward.

4.21 Whichever model is adopted, bridging funding should be made available by central government to assist the transition.

Distribution formula

4.22 If part or all of the custody budget is to be devolved to local bodies, a view needs to be taken about the formula that should provide the basis for distribution. The following options were identified:

Current and historic use of custody

4.23 In this model the formula would be based on how much custody the area is using, and has used over a recent period (say the last 5 years). This would align budgets to current or recent demand, and would be likely to cause the least underspend/overspend problems. However, current and historic use of custody may be based on some quite arbitrary factors (eg sentencing culture, quality of Yot services, quality of children's services generally) that have little to do with the real need of children in that area. For example, authorities in the North East have a comparatively low use of custody in relation to the need of children in its area and would be unfairly disadvantaged by a 'historic use' approach. Areas that make a disproportionately high use of custody would be 'rewarded' by a relatively large slice of the budget.

YJB formulae to distribute grants to Yots

4.24 The YJB distributes a number of grants to Yots across the country for various purposes, and uses a number of different formulae for doing this. These formulae incorporate a number of different indicators, including deprivation factors, but also offending statistics within the relevant area. As we shall argue below, we believe that the custody budget should be distributed according to the best judgement available, about aggregate welfare needs of children, and not on any 'criminogenic' factors. For this reason we do not favour the use of YJB grant distribution formulae.

Aggregate welfare needs

4.25 The Department for Communities and Local Government (DCLG) has developed a formula, based on indicators of need and deprivation, of the children in each local authority area. This is essentially a formula based on aggregate welfare needs, and it is this formula that is used to distribute grants to Children's Services departments within each local authority.

Discussion

4.26 In principle, SCYJ believes that children at risk of custody are generally children who have high welfare needs. Meeting those welfare needs is the most effective way of reducing the risk of custody, and it is on the basis of the best assessment of aggregate welfare need that budgets should be distributed.

4.27 Therefore we recommend the use of the DCLG formula. However, moving straight to such a formula may produce unmanageable anomalies. It may be sensible to consider transition from a historic use formula to a needs based formula, although such a process is likely to be quite complex.

Across the board, or incremental approach?

4.28 We considered whether it would be wise to implement budget devolution across the whole country at a single point in time, or whether an incremental, phased approach would be more sensible.

4.29 On the face of it to go to a national approach covering the whole country, in relation to all forms of custody, would be very risky. Complex unforeseen problems in a number of authorities may emerge that would be extremely difficult to address. There are we think, overwhelming arguments for an incremental approach to budget devolution. An incremental approach would give the opportunity to test proposals out on a small scale without taking large risks. We support an incremental approach.

4.30 Options for incrementalism include:

Starting with particular court disposals

4.31 A version of this approach is of course the YCAP proposal, which suggests starting with remands to secure accommodation. This budget is currently not wholly centralised, with hybrid arrangements as described in para 3.20. The YCAP suggestion is that local bodies should be made wholly responsible for costs, not just one third. We do not support this proposal. We think this risks incentivising local bodies to use cheaper remands to prison (which will be ‘free’ for the local body) for vulnerable children who may need the extra care afforded by SCHs. It would also not allow for testing out important parts of the devolved process, for example, stimulating local commissioning using the Offender Management Act 2007.

Geographical incrementalism

4.32 Local bodies that are interested to test a devolved system might be invited to do so on a pilot basis. They would, from a defined date, test out the new system across the whole range of custodial disposals. There should be ample preparation time, (see section 5). If the pilots are successful the new system (amended through learning gained in the pilots) may be rolled out over subsequent years perhaps in a phased way. We believe this represents the most promising way forward.

Conclusions

4.33 Overall we conclude that:

- Budgets should be devolved to Children’s Trusts, which may come together in larger groups if they see fit;

- Budgets should be devolved on a notional basis, with refund and recharge mechanisms, and the accounting period should be several years;
- The formula for distributing budgets should be based on the aggregate need of children rather than historic use of custody, although it may be necessary to have transitional arrangements which in the short term recognise the historic use of custody in particular areas;
- The change should be piloted in a small number of Children's Trusts which wish to test out the new arrangements;
- "Bridging funding" should be made available to the pilot Trusts, to help to kick start the new arrangements.

5. Implementation issues

5.1 We have argued in Section 3 that children's custodial budgets should be devolved to Children's Trusts, and that devolution should take place incrementally on a pilot basis. In this section, we start to explore some implementation issues for pilot Trusts, and how a Trust might prepare itself for the change.

Preparation

5.2 We think that there should be a good lead in time for Trusts to prepare themselves for the change.

5.3 We think the Trust would be wise to consider budget devolution as only one measure (albeit an important one) that is likely to bear down on the level of children's custody. We think a strategic co-ordinated approach to measures that may reduce children's custody should be taken. Attached at Appendix 2 is a checklist of issues that the Trust may wish to consider in preparation for the change.

5.4 We would in particular suggest that the Trust consider establishing a 'custody panel' (issue 7 on the checklist) which examines circumstances around every child who goes to custody, to check all measures possible were taken to prevent custody, and learn from experience. North Hampshire, where a custody panel was recently established, saw a 42% reduction in children sentenced to custody over the course of a year.¹¹

5.5 The table below sets out some of the services that may be alternatives to custody, or custody avoidance measures, which the Trust might think about developing/enhancing or commissioning.¹²

¹¹ See The Howard League for Penal Reform website for a description of this initiative - <http://www.howardleague.org/index.php?id=798>

¹² These costs are indicative only, based on small samples.

Service	Cost in £K
Residential care (in-house)	140 per year
Residential care (independent sector)	130 per year
Fostering (in-house)	27 per year
Fostering (independent sector)	39 per year
Intensive fostering	104 per year
EBD school (residential)	102 per year
EBD school (day)	55 per year
Therapeutic community	131 per year
Residential drug treatment centre	170 per year
Multi Systemic Therapy	7 per intervention
Functional Family Therapy	3 per intervention
Intensive Supervision and Surveillance Programme	8 per intervention
Youth Inclusion Programme	2 per intervention

Risks

- 5.6 It would be wise for the Trust to consider the risks of budget devolution and put in place mitigating measures.
- 5.7 The most obvious risk is the financial one of significant overspend. The main difficulty for the Trust is the fact that it would be responsible for managing a budget over which it has no direct control. Sentencers (magistrates, District Judges and Crown Court judges) make the decisions that would lead to expenditure from the budget.
- 5.8 This of course is a local version of the risk that the government faces at a national level, where the government has little control over sentencers who may (and do) collectively make decisions about custody that threaten to overwhelm the available resources.
- 5.9 The local risk may be reduced by involving sentencers in planning for the change, and ensuring they understand the objectives of the exercise. This is not to seek to challenge the judicial independence of sentencers, but to establish a shared understanding and commitment to ensuring that custody is only used as a genuine last resort, and to maximise the use of custody avoidance alternatives.
- 5.10 It may be helpful for the Trust to establish a high level Steering Group to oversee the change which consists not only of key members of the Trust, but also representatives of sentencing bodies.
- 5.11 An important issue for a Steering Group to consider would be that of ensuring that any funding that does become available from the devolution exercise should be exclusively reinvested in schemes and services that are likely to bear down on the use of custody.

Conclusion

5.12 Overall, we believe that with adequate preparation that is strategically coordinated, and a careful approach to risk management, Trusts will be able to achieve a significant reduction of children's custody, and, with new money made available through the devolution process, move to provision of services that better meet the needs of disadvantaged children.

6. Recommendations

In this section we summarise our recommendations:

- 1) Elements of the overall national commissioning approach to custody should remain. However there should be the opportunity for significant and growing local commissioning, where local authorities identify suitable placements and agree them with the YJB, taking advantage of Section 34 of the Offender Management Act 2007.
- 2) Current arrangements for placements should be retained for those placements that continue to be commissioned centrally, but of course decisions about locally commissioned placements will be made locally.
- 3) The budget should be devolved to Children's Trusts. Trusts may group together and pool budgets if they see fit.
- 4) Budgets should be devolved on a notional basis, with refund and recharge mechanisms, and the accounting period should be several years
- 5) The formula for distributing budgets should be based on the aggregate need of children rather than historic use of custody, although it may be necessary to have transitional arrangements which in the short term recognise the historic use of custody in particular areas
- 6) The change should be piloted in a small number of Children's Trusts which wish to test out the new arrangements
- 7) "Bridging funding" should be made available to the pilot Trusts, to help to kick start the new arrangements
- 8) Adequate time for Children's Trusts to prepare for the change should be allowed.
- 9) Trusts should approach the matter in a holistic fashion, and seek to identify and mitigate risks.
- 10) The devolved budget should be should be exclusively reinvested in schemes and services that are likely to bear down on the use of custody.

Financially Incentivising Local Authorities to Divert Young People from Custody- Researching other Countries' Initiatives

December 2008

1. Background

1.1. What is the current youth justice funding system in England and Wales?

The costs of custodial placements for children are currently carried centrally by the Youth Justice Board. The only exception is for court order secure remands to Secure Trainings Centres when local authorities are expected to contribute **one third** of the placement cost. The Youth Crime Action Plan published in July 2008 proposes consulting on making local authorities responsible for the **full** cost of court ordered secure remands and exploring, in the longer term whether local authorities should be responsible for the funding and costs of custodial placements.

1.2. Are there any current financial incentive initiatives in England and Wales?

Local Area Agreements

Introduced in 2004, an LAA is a three year agreement that sets out the priorities for a local area agreed between three stakeholders: Central Government, represented by the Government Office (GO), a local area, represented by the local authority and other key partners through Local

Strategic Partnerships (LSPs).¹³ The LAA's place more emphasis on area based service delivery, give more freedom in spending decisions and have fewer central targets and reporting systems.

Under the Local Government and Public Involvement in Health Act 2007 an LAA will compromise 35 targets out of possible 198 from the National Performance Indicator (NPI) Set; 18 of the targets must relate to statutory education. The remaining targets can relate to the NHS, policing and community safety. LAA's give each stakeholder the opportunity to address local youth justice needs. For example NPI no. 43 addresses the percentage of young people who upon a court conviction are sentenced to custody. If NPI no. 43 was chosen as a set target within a LAA, a local authority will have the responsibility to reduce the percentage of youths placed in custody.

The Local Government Association (LGA) has stated that innovative practices will be acknowledged and rewarded; however, the means by which they would do this is currently unclear. Thus, a LA has no definite incentive, financial or otherwise, to fulfil the targets for their local area. The LGA has also stated that they currently do not penalise LA's for failing to reach the targets set. At most, the LGA will issue an improvement notice to an LA, carry out a 'triggered' inspection or 'mobilise national political pressure from leading LGA members on authorities where political blockages to improvement exist.'

Discussion

LAA's appear to be the first step by which central government and local authorities have a platform to discuss and impose youth justice targets, however, setting youth justice targets are not compulsory within an LAA. Consequently, there is only a small window of opportunity whereby a youth justice target can be set, especially a target specific to the reduction of young people in custody. Further, no financial incentives or penalties have been

¹³ A LSP is a non-statutory partnership that brings together the different parts of the public, private, voluntary and community sectors working at a local level.

introduced, thus, local authorities have no financial motivation to realise the targets that have been set.

The above framework is currently under review, and, after speaking with Adrian Stretch (The National YOT Development Manager) it appears that a financial reward guidance framework is to be issued imminently. This would create a system whereby Local Authorities would be awarded monies on the basis of their total performance against LAA targets. The Local Authority would then be free to choose how the reward is spent.

2. Purpose of this review

The purpose of this review is to establish whether other countries incentivise their local authorities to develop and maintain community provisions for young people as an alternative to custody by offering monetary reward. Or, incentivise their local authorities to develop and maintain community provisions for young people by financially penalising them for high custody rates. Both approaches will be called: 'financial incentive initiatives', throughout the research project.

An effective financial incentive initiative should motivate Local Authorities to reduce the number of young people sent to custody on conviction and to provide alternative, more rehabilitative, provisions that address the needs of young people.

After identifying countries that have introduced financial incentive initiatives, I will analyse the information and highlight initiatives that appear successful in reducing custody rates and developing alternatives to custody. I will also raise any key concerns associated with financial incentive initiatives. Drawing upon my findings, I will then propose a skeleton financial incentive framework that would be most effective in reducing child custody rates and increasing community provisions. Additionally, I will suggest an incentivised initiative that could work within the current UK youth justice system.

3. Examples of Financial Incentive Initiatives in the U.S.A

3.1. RECLAIM Ohio-Reasoned and Equitable Community and Local Alternatives to the Incarceration of Minors.

How Does it Work?

In Ohio, the RECLAIM financial incentive initiative has been developed with the aim of protecting public safety whilst adopting a responsible fiscal policy in response to youth offending. The RECLAIM scheme encourages counties to develop and maintain a range of community-based provisions to meet the needs of each juvenile offender or youth at risk of offending by way of allocated funding.

The initiative is funded by the Department of Youth Services (DYS). Every year, each county is given a base rate of \$50,000 and then additional funds are allocated based upon a four-year average of the number of court disposals issued within the county. As a result, counties with higher crime rates receive more funding under the scheme. The additional funds are, however, subject to 'penalty charges' which reduces the amount funding allocated annually.

Penalty charges are issued for the usage of DYS institution and Community Corrective Facility (CCF) beds from the previous year. A DYS institution bed is valued at a 1 credit and a CCF bed is valued at two thirds of a credit. Thus, counties who place more youths in custody will incur greater penalty charges, which will, in turn, reduce the amount of funding that they were originally entitled to receive from the state. A typical example of the financial incentive initiative has been provided by the DYS:

Example - County's four-year average of number of court disposals: 50
(Statewide: 10,000)

Example County's number of charged DYS bed days: 1,000
(Statewide: 500,000)

$$(500,000 / 10,000) * 50 * 1.5 = 3,750 \text{ credits}$$

$$3,750 - 1,000 = 2,750 \text{ credits remaining}$$

$$2,750 / \text{statewide number of credits (i.e. 300,000)} = .00917$$

$$.00917 * \text{total funds available (i.e. \$30,000,000)} = \$275,100$$

The use of 'public safety beds' are not subject to penalty charges. These beds are reserved for grave offences which are defined in Ohio's Revised Code s. 5139.01(A)(13). The offences include all category one offenses and all category two offences (e.g. rape and murder) except for Aggravated Robbery and Aggravated Burglary. Thus, in situations where a young person is incarcerated for reasons of public safety, a county's funds will not be subject to a penalty charge.

Discussion

The above framework encourages counties to think of custody as a last resort. Under the scheme there has been a decrease in youths who are placed in DYS institutions from 2,600 in May 1992 to 1,600 in Jan 2008. In turn, the framework also encourages counties to provide alternatives to custody in order to receive more state funding for a vast array of treatment, intervention, diversion and prevention programmes. In 2005 the DYS allocated approximately \$48.6 million to counties to fund local RECLAIM programmes which served over 100,000 youths.

However, 75% of RECLAIM funded programmes were specifically designed and used for low to medium risk offenders. In addition, RECLAIM

programmes are only available post-adjudication. As a result, youths who commit low level crime may be made subject to unnecessary judicial intervention given the succeeding availability of interventional programmes. This may present employment difficulties in the long term should the intervention create a criminal record.

Moreover, the risk of increasing the numbers of young people within the justice system may be amplified because of the incentivised basis of funding; where children who commit low level offences may be drawn into the youth justice system unnecessarily to allow for increased funding.

Nevertheless, when low and medium risk youths are drawn into the youth justice system it is clear that RECLAIM funded programmes are most effective in relation to reoffending rates. This is demonstrated by 2005 research which indicated that low and medium risk youths are up to six times more likely to reoffend when placed in a custodial setting of a CCF or a DYS institution as apposed to completing a RECLAIM programme in the community. Importantly, the research also revealed that high and very high risk offenders were less likely to reoffend when placed in CCF's or DYS institutions. This highlights that not every young person should be diverted from custody and that, in certain instances, a County should not be financially penalised for placing a young person in custody if it is in their best interests.

3.2 Pennsylvania- Act 148 and Needs Based Planning and Budgeting

How Does it Work?

In 1976, Act 148 was enacted by the state of Pennsylvania to change the way in which the youth justice system operated. Under Act 148, counties have financial incentives to develop and sustain a continuum of community services to meet the needs of youths in their area. Pennsylvania does not, however, allocate a fixed annual budget to local authorities (as in Ohio). Instead, the state chooses to retain the purse strings of all of the counties youth justice budgets so as to operate a funding 'umbrella'. The state made this decision so

as to avoid 'funding silos' that often occur when budgets is devolved to local authorities. Funding silos can often result in the most vulnerable children who move from county to county not receiving adequate intervention.

Initially, under Act 148, the Department of Public Welfare (DPW) subsidised 80% of the cost of a County's community provisions; the remaining 20% of costs would be provided by a County. However, if the community provision was of a restrictive nature a County would receive less financial support from the State. For example, a County would have to pay for 50% of the cost of placing a child in secure detention in local facilities and 40% of the cost of placing a young person in state institutions operated by the DPW.

The above financial incentive framework has been refined by the introduction of Needs Based Planning and Budgeting initiative which has found a midway point between uncapped financial subsidies (that the basic Act 148 framework generated) and a devolved budget (as in Ohio).

The initiative requires a County's welfare service providers to develop an annual budget plan that shows both the predicted adjudication needs within the area and how much those youth justice services will cost. The DPW, once in receipt of the budget plans of all 67 counties, will submit an aggregate budget allocation request to the legislature. The allocation of funds is subject to deduction based upon the state's subsidies for community provisions and custodial facilities.

Discussion

The above framework has enabled the state to fund by way of area profile. This tailored approach is fiscally effective and also incentivises Counties to develop community provisions because of the subsidies they receive, as demonstrated by the 1998 figures which showed that funding for community provisions had dramatically increased from \$64 million to £114 million.

Further, recent figures in 2003 have shown that custodial rates have significantly dropped since the implementation of the scheme and that of the 5,701 children adjudicated only 378 were placed in state facilities operated by the DPW. However, there has been no research conducted to examine the effectiveness of the initiative with regard to reoffending rates.

3.3. California – ‘Realignment’ Initiative

How Does it Work?

In 1996 a ‘sliding scale’ law was enacted in California giving counties a financial disincentive for sending youths who had not committed serious offences to California Youth Authority (CYA) facilities. Under the scheme, counties pay for the use of CYA facilities on a ‘sliding tariff scale’ basis, based upon the seriousness of the offence. Thus, a County will have to pay a higher tariff for using state facilities when a young person’s offence is not considered serious. The seriousness of offence is graded from a serious I to a least seriousness VII.

- I : serious- \$175 monthly charge
- V : moderate- \$262 monthly charge (50% increase)
- VI : less serious- \$306.25 monthly charge (75% increase)
- VII: least serious- \$ 350 monthly charge (100% increase)

(2005 figures.)

At most, a County will contribute \$2,100 towards the annual costs of custody. In 2005 the full cost of sending a child to a CYA facility was approximately \$92, 545. This means that a County will only pay for 1/22 of the cost of custody. Although this seems like a small contribution, the figures suggest that the ‘sliding scale’ has still dis-incentivised Counties from allowing large

numbers of young people to be sent to custody. In fact, since 1996 the CYA facility population has more than halved from 10,114 to 4,879 in 2003.

Following on from the introduction of financial disincentives, the Californian legislature enacted the Juvenile Justice Crime Prevention Act (JJCPA) in 2002. Under the Act, a County can secure state funding so as to achieve two overarching aims:

- 1) Firstly, to generate and maintain community based schemes as an alternative to custody.
- 2) Secondly, to develop multi-agency work within counties.

To be eligible for funding under the Act, counties must assess their youth justice system, identify what is needed to improve the service and make a local strategy plan to target those needs. Upon receipt of allocated funding, counties are expected to implement their local strategy plans. Counties are also required to review the success of their implementations annually with regard to expenditure and youth justice outcomes. This added requirement has two aims: firstly, to enable the local service providers to refine their local strategy plan and secondly, to allow for state monitoring of community schemes in order to ensure value for money.

In addition, Counties are required to form a Juvenile Justice Coordinating Council; a multi-agency body created with an aim of bridging the gap between different children's local service providers so as to deliver an effective and efficient youth justice service.

Discussion

Research indicates that the JJCPA and the community schemes created under the Act have much improved youth crime rates. In 2003-2004 community schemes served 106,055 youths who were at-risk of offending or already involved in the juvenile justice system.

The participating counties also experienced a decrease of more than 60% in the number of youth arrested, incarcerated, or who violated probation. A further 57% of participating counties also experienced an increase in the number of youth who completed probation, or a community programme. However, such success has not been emulated in CYA facilities where it has been suggested that nearly 90% of youths who have been placed in those facilities reoffend.

3.4. Illinois-Redeploy Programme

How Does it Work?

In 2004, the Redeploy Illinois programme was introduced under the Illinois Public Act 93-0641. The programme selected four counties to develop and implement sustainable, community based alternatives to custody and had three primary objectives:

- 1) Reduce the number of (Illinois Department of Corrections) IDOC commitments by 25% as compared to the prior three years
- 2) Reduce reoffending rates
- 3) Reduce the level of disproportionate BME incarceration

To meet these objectives, Redeploy Illinois rewarded the four participating counties by providing funding for community-based alternatives to custody if they reduced the number of youth incarcerations in IDOC by 25%.¹⁴ The four counties had to submit plans for diverting youth from IDOC and expanding community-based treatment provisions relevant to their area profile. For example, the county of St. Clair has used its Redeploy funds to support

¹⁴ The four participating counties are: St Clair, Macon, Peoria and 2nd Judicial District (comprised of 12 independent counties).

programmes such as aggression Replacement Training and Family Group Conferencing to meet the needs of youths in their county.

Discussion

The Redeploy Illinois Oversight Board reported that three of the four pilot sites exceeded their 25% IDOC youth incarceration reduction goal, and that the combined reduction in youth incarceration is approximately 37%. In addition, a further \$1,411,000 was spent on locally based programmes in year one of the initiative. Moreover, Redeploy saved the state \$2,123,063 in funds that would have been spent incarcerating youths.

4. Key Concerns/Shortcomings associated with financial incentivised initiatives identified from the review

• Inequality

Local authorities would quite rightly argue that they should not have to pay for a service which is 'commissioned' by the magistracy and judiciary and over which they have no control. Given the wide geographical disparity in sentence patterns – unrelated to the levels and nature of youth offending – it would also impact disproportionately on some authorities. Conversely, it would be virtually impossible to run a national custodial system based on 'spot purchasing' by individual authorities and unlikely to be financially viable for local authorities to operate their own custodial provision.

• Net Widening

If the allocation of additional funds was related to the development and maintenance of community provisions, there is a risk of creating a perverse incentive for Local Authorities to allow increased numbers of young people to be drawn into the youth justice system so as to secure greater financial input.

- **Shift of focus from early intervention programmes to post-adjudication rehabilitation programmes**

If a financial incentive initiative rewards Local Authorities when a young person is given a non-custodial sentence and then takes part in a community provision, there runs a risk of motivating Local Authorities to place more funds and effort in developing post-adjudication programmes as apposed to early intervention programmes, given the financial remuneration. The lack of focus on children at risk of offending may result in many young people not receiving adequate intervention at an early enough stage. In turn, without that support, those children who would have been diverted from the criminal justice system could end up within it.

- **Central Government and Judicial authority in decision making process**

Goldson and Muncie have queried introducing financial disincentives in order to pressure Local Authorities into reducing the custodial rates in their area. This is because the increased use of custodial sentences given to young offenders is a direct consequence of central Government policy. Is it fair for Local Authorities to have the financial burden of paying for custody given that the punitive sentencing framework was created and is still endorsed by Whitehall? Further, many commentators have suggested that the because the judiciary are the final decision making body in relation to sentencing options that they instead should have to financial contribute to a young persons custody costs.

- **Lack of data that measures success of financial incentive initiatives**

There is a lack of research that examines the full advantage of using a financial incentive initiative. Although some initiatives have displayed

some aspects of cost benefits, it has not been possible to locate a significant amount of research that identifies financial incentive initiatives as successful in reducing reoffending rates. Such research would be beneficial so as to ascertain a true benefit of financial incentive schemes.

5. Summary

There is a limited span of literature that examines financially incentivised initiatives that only covers US states. Although a limited amount of research has been identified, evidence has shown that introducing financial incentives in order to motivate Local Authorities to develop and maintain community provisions could help to reduce the number of young people sent to custody on conviction. Based upon the following research, an effective financial incentive framework would:

- **Retain a central funding system.**

Simply transferring the cost of custody from central to local government would result in funding silos and a postcode lottery of youth justice. Instead, central government could work collaboratively with local authorities to draw up local budget plans and allocate funds annually so as to address local youth justice needs. This would also allow for multi-agency input and fiscal monitoring, maximising the efficiency of youth justice services.

- **Penalise Local Authorities for the unnecessary/disproportionate use of custody.**

Central government could have the power to responsibly penalise local authorities for unnecessary/disproportionate incarceration. A Local Authority could be penalised by having to pay for a proportion of the

cost of custody out of their own pockets. This would dis-incentivise a Local Authority from allowing large numbers of young people to be placed in custody upon conviction as they will incur some of the expense.

- **Scale Penalisation**

Fixing a rate by which a Local Authority would have to pay for custody could result in Local Authorities avoiding custody at all costs, even when incarceration may be necessary for public protection. Instead, a 'sliding scale' system could be introduced where a Local Authority's contribution to custody costs would correspond to the seriousness of offence that the incarcerated youth has committed. Accordingly, a Local Authority would contribute less towards a young person's custody costs if they have committed a high level offence. This would allow a Local Authority to place a young person in custody when necessary for public protection without being financially penalised.

- **Encourage Local Authorities to offer alternatives to custody**

It is not enough to dis-incentivise Local Authorities from placing young people in custody. So as to ensure the development of meaningful rehabilitative programmes, Local Authorities must also have a financial incentive to motivate Local Authorities to develop alternatives to custody. To achieve this, Local Authorities could be offered the chance to secure additional funds should they develop and maintain alternative community provisions that are successful in rehabilitating young offenders. Such success should be measured in line with reoffending rates.

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APPENDIX 2

Reducing childrens custody in an area covered by a Children's Trust

Issues for consideration

No	Issue	Lead	Consideration	Decision/Action
1	Commitment	Elected Members, LA Chief officers, Police, Courts,	Is there a broad commitment among elected members and across all agencies to reducing the level of custody for children? Is the public mood in the authority sympathetic to this objective?	
2	Information	LA, Yot, Courts	Is there readily available coherent, consistent and easily understood information, about youth offending, sentencing options and outcomes, and the comparative advantages and disadvantages of community and custodial penalties?	
3	Communication	LA, Yot, Courts	Is there a strategy in place to communicate the messages from 2. to sentencers, local politicians, opinion formers, the local media, and the public generally?	
4	Prevention	Children's	Are universal services addressing needs of children in	

		Services, Yot, voluntary agencies	need? Are there projects/programmes in place that seek to identify young children at risk of offending behaviour, and provide services to reduce the risk?	
5	Diversion	Police Yot	Are arrangements agreed with relevant agencies that maximise the opportunity for diverting children from the criminal justice system right at the beginning of their offending?	
6	Court services	Yot	Does the YOT provide high quality, highly credible service to the courts, and in particular are PSRs of high quality?	
7	Gatekeeping custody – custody panels	Yot, sentencers	Are arrangements in place to examine circumstances around every child who goes to custody (and “near misses”) to check all measures possible were taken to prevent it, and learn from experience? Is viability of appeal being considered?	
8	Remand management	Yot, Childrens Services, Housing Agencies	Are arrangements in place to maximise opportunities to manage remands in the community or in local authority accommodation, through bail support/supervision, protocols with children’s services, and housing agencies?	
9	Alternatives to	Yot, ISSP	Are there robust alternatives to custody available to the	

	custody	provider	courts? Are there sufficient programmes to meet demand, do they consist of the right interventions, and are they properly targeted?	
10	Looked after children (LAC)	Childrens Services, Yot, Police, CPS	Are arrangements in place to prevent the inappropriate acceleration of LAC through the youth justice system?	
11	Child abuse and child protection	Childrens Services, Yot, PCT	Do the various agencies understand the links between child abuse and offending behaviour, and are arrangements in place between child protection services the Yot and the PCT to provide early preventive and therapeutic services?	
12	Resettlement	Yot, custodial establishments, Childrens Services, Education and Training agencies, PCT, NOMS	Are arrangements in place to provide high quality resettlement services to children leaving custody that are likely to reduce the likelihood of re-offending and return to custody?	