

Prison Reform Trust submission
The new remand framework for children:
Allocation of new burdens funding to local authorities

The Prison Reform Trust is an independent UK charity working to create a just, humane and effective prison system. We do this by inquiring into the workings of the system; informing prisoners, staff and the wider public; and by influencing Parliament, government and officials towards reform. We welcome the overall decision to devolve remand budgets to local authorities and welcome the opportunity to respond to this consultation. The Prison Reform Trust is a member of the Standing Committee for Youth Justice (SCYJ), and supports SCYJ's response to this consultation. To prevent duplication, we have therefore chosen to respond only to those questions on which we have additional expertise or can draw relevant information from our research.

Question 3: Do you have any comments on the proposal relating to the costs of remand to secure children's homes and secure training centres?

We are concerned that there will be no transfer of funding to support the costs of children remanded to secure accommodation who are subsequently placed in secure children's homes (SCHs) and secure training centres (STCs). Given that estimates suggest the costs will total £17.5 million, this is a significant additional burden that local authorities will be required to assume. It is unrealistic to expect local authorities to meet these additional costs without some form of taper, or gradual transfer of financial responsibility, particularly when the decision to place a child in either an SCH or STC lies with the Youth Justice Board. The consultation document refers to the policy intention of "*use[ing] the existing legal framework to make local authorities gradually responsible for the full cost of court ordered secure remand*" outlined in the Green Paper. Making local authorities wholly responsible for the costs of remands in SCHs and STCs as of 1st April 2013 is not indicative of a gradual shift in responsibility from the centre to local areas. In addition, given that court ordered secure remand will be removed from statute when the new remand framework is commenced, shifting budgetary responsibility for remand placements which will be subject to a different legislative framework is not justified.

There are undoubtedly steps that youth offending teams can take to mitigate against the risk of children who would likely be placed in either SCHs or STCs being imprisoned on

remand in the first place (for example, investing in suitable community provision for younger and vulnerable children, earlier identification of factors, such as mental health problem, learning disabilities and difficulties and experience of bereavement, likely to influence assessments identifying vulnerability, and improving advocacy for vulnerable children in court). However we are concerned that this proposal has the potential to introduce a perverse incentive for local authorities to err against identifying concerns about vulnerability if a child was to end up in custody so as to influence placement decisions, or even challenging placements in SCHs or STCs once such decisions have been made.

Given the per-night price differential between a place in an SCH (£577) or STC (£607) and in a young offender institution (£173), there is also a real risk that the independence of the placement process could be compromised, with decisions being made according to financial, rather than welfare, concerns. We would welcome greater transparency over the factors driving placement decisions, detail of which does not feature in the consultation document, and clarification of the monitoring mechanisms and provisions for review which will be put in place to ensure the devolution of the remand budget does not lead to inappropriate placements.

Finally, the Prison Reform Trust is concerned that this proposal could lead to a further reduction in use of secure children's homes, the institutions which, and the qualified staff who, are best suited to meet the multiple and complex needs of children in trouble with the law. The new remand framework, which is anticipated will lead to a reduction in the number of children subject to remand to youth detention accommodation, provides an opportunity to move away from the use of prison service accommodation for children whom the court has deemed must be held securely. This opportunity should not be missed.

Question 7: Do you agree that the proposals set out above offer a pragmatic approach to dealing with the costs of remand journeys to and from all types of youth detention accommodation?

We endorse the concerns raised in SCYJ's submission over this approach to recovering the costs of remand journeys. The consultation document states that, because "*local authorities currently meet the costs of journeys to and from secure children's homes and STCs, the costs of journeys under the YJB's contract will be deducted from the amount transferred to local authorities under the new burdens agreement*". We understand the new escort contract, which is now held by Serco, is estimated to have a value of £10 million over four years¹, though there is no information relating to the amount local authorities were spending on escort services prior to the new contract. As SCYJ's submission makes clear, making local authorities pay for a new service which has been contracted by the YJB may cause concern.

¹ http://www.serco.com/Images/CNU_14_tcm3-39582.pdf

In addition, the amount to be deducted upfront “*will be calculated on the basis of historic bed night usage for SCHs and STCs*”, rather than the estimated cost of the contract, actual bed night usage or, more appropriately, actual transport usage. It is therefore unclear whether the amount deducted will take account of the reductions in use of remand expected as a result of the new remand framework. We would welcome clarification as to whether this is the case.

As the consultation document states, the contract for transporting remanded children placed in YOIs is currently held by NOMs, with the costs met by the YJB. It also states: “*It is possible that at some stage responsibility for meeting all remand transport costs will be transferred to local authorities*”. We would welcome assurances that any transfer of financial responsibility for this service will be accompanied by additional devolved funds in recognition of the additional burden, and a say in the commissioning and contracting of any new service provider. We would welcome a commitment that any contractual renegotiation would be used as an opportunity to end the practice of transporting children alongside adults.

Question 8: If not, what arrangements should be put in place?

If local authorities are to be charged for journeys to and from secure children’s homes and secure training centres, these charges should be calculated on the basis of their actual usage of this service, in keeping with the principles of payment by results, and not according to pre-agreed payments contained in contracts negotiated by the Youth Justice Board. This would ensure local authorities are only paying for the service they are using, and are able to reap the financial benefits of any reduction in their use of such remands.

Question 9: Do you agree that funding for local authorities to meet their new duties to treat all remanded children as looked after should be distributed on the basis of bed night usage of under-18 young offender institutions averaged over the three most recent years for which data are currently available?

Again, we endorse the concerns raised by SCYJ. We would welcome clarification of the duties which will apply to local authorities with regard to “*this new group of looked after children*” at the earliest opportunity. For example, is it expected that aspects of existing regulations and guidance will not apply to local authorities in the delivery of support and services to children who become looked after by virtue of remand, as appears to be implied in the consultation?

To ensure transparency we would also welcome further information as to how the LAC

component of the total budget being devolved has been calculated and what services the funds transferred to local authorities are expected to cover.

We would also welcome clarification as to how the new looked after status will sit alongside existing looked after status when conferred under Sections 20 and 31 of the Children Act 1989. For example, if a child who is already looked after under Section 31 is remanded to youth detention accommodation, does their looked after status stay the same (i.e. their existing LAC status takes precedence over)?

Finally, we would like to take this opportunity to highlight the needs of children looked after under Section 20 who lose their looked after status if they are sentenced to custody. In light of the welcome decision to make every child remanded looked after, the disparity between children remanded and children sentenced to custody will be stark, despite the fact that the needs of both are likely to be the same.

Prison Reform Trust
November 2012