



Ministry
of Justice

Government response to the Justice Committee's Seventh Report of Session 2012-13: Youth Justice

May 2013



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Youth Justice

Presented to Parliament
by the Lord Chancellor and Secretary of State for Justice
by Command of Her Majesty

May 2013

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Any enquiries regarding this publication should be sent to Helen Smith, Justice Policy Group, Ministry of Justice, 8th Floor, 102 Petty France, London SW1H 9AJ.

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Contents

| | |
|--|---|
| Part 1: Introduction | 3 |
| Part 2: Government response to the Committee's conclusions and recommendations | 4 |

Part 1: Introduction

1. The Government welcomes the report of the Justice Committee on Youth Justice. This command paper is the Government's response to the report and is provided jointly with the Youth Justice Board of England and Wales (YJB).
2. The Government remains committed to a distinct youth justice system reflecting the distinctive needs of children and young people. We welcome the significant progress made in the youth justice system to prevent young people committing proven first time offences; with numbers having reduced by 67% since the peak in 2006/07. We are further encouraged to see numbers of young people in custody at their lowest figure for the past 10 years; in 2011/12 there were on average 1,963 young people aged under 18 years in the youth secure estate, and the number of young people under the supervision of Youth Offending Teams has reduced by 22 per cent since 2010/11 and by 48 per cent since 2008/09. We recognise that the report reflects the significant progress made in the youth justice system, whilst acknowledging that there is more work to be done.
3. The Committee's report was published on 14 March 2013 following the Inquiry to hear evidence between June and December 2012. Since the Inquiry closed, the Government has set out its vision for reforming youth custody in the Green Paper 'Transforming Youth Custody: Putting education at the heart of detention,' which was published on 14 February 2013. The Government's vision is for quality education at the heart of detention, which contributes to reducing reoffending and driving down the costs of youth custody. The consultation sought proposals from a wide range of organisations and individuals on how this vision might be implemented, and responses to the question of how the wider needs of young people in custody can be met and stronger connections forged between custodial establishments and community services. The Government is now considering its response to the consultation. We welcome the Committee's interest in this consultation, and we will outline our plans for transforming youth custody in due course.
4. The Ministry of Justice and the YJB welcome the report's focus on tackling the over-criminalisation of young people in the care system, as this is an issue that we are keen to tackle with partners across Government in the year ahead. We also welcome the focus on improving the collection and dissemination of effective practice. The YJB has taken significant strides to develop effective practice, and we are encouraged by the Committee's recognition of its importance and the steer on next steps.

Part 2: Government response to the Committee's conclusions and recommendations¹

5. In this part of this paper the Ministry of Justice (MoJ) and the Youth Justice Board of England and Wales (YJB) reply in turn to each of the conclusions and recommendations made the Justice Committee in its report [HC399]. The conclusions and recommendations appear in the same order as they appear in the Committee's report.

Recommendation 1: We strongly welcome the substantial decrease since 2006/07 in the number of young people entering the criminal justice system for the first time, and commend local partnerships for their successful efforts to bring this figure down. Justice agencies play a crucial role in preventing youth crime by diverting young people away from formal criminal justice processes, which, when done well, means they are less likely to go on to serious and prolonged offending. We are particularly encouraged that many youth offending teams and police forces are using a restorative approach to resolving minor offending. (Paragraph 10)

The MoJ and the YJB welcome the Committee's acknowledgement of the progress made in reducing the number of young people entering the youth justice system. Local authority education and children's services play a crucial role in promoting good outcomes for children and families. Such intervention can contribute to a range of positive outcomes and prevent a range of negative outcomes, not only in relation to criminal justice.

Restorative justice is a feature of the youth justice system as it is recognised that a restorative approach can be very effective for young people whose thinking skills are still developing, helping them consider the impact of their offending on victims and/or the wider community as well as on their own family. The police have similarly identified the benefits of restorative justice through initial piloting of a restorative informal disposal for under-18s which has now been adopted across police forces in England and Wales for first-time, low level offences where the victim agrees. This use of restorative-based informal resolution helps to avoid disproportionate criminalisation of young people for very minor offending.

Recommendation 2: Looked after children have not benefitted from the shift towards a more informal approach to minor offending to the same extent as other children. While serious misdemeanours must be dealt with in a serious manner, it is completely disproportionate for police officers to be called to a children's home to investigate trivial incidents such as the broken crockery example cited by the Prison Reform Trust—it puts already vulnerable children at greater risk of being drawn into the criminal justice system and is, moreover, a waste of police resources. We recommend (a) that the Government ensure that all local authorities, in conjunction with partner agencies, have strategies in place to reduce criminalisation of looked after children and that action to achieve this is included more specifically in the evaluation criteria for Ofsted inspection of care homes; (b) that the Director of Public Prosecutions revisits the legal guidance in relation to the prosecution of youths to see if the relevant passages require better compliance, or strengthening, to reduce the risk of discrimination against looked after children;

¹ Recommendations correspond to the numbers set out in pages 63-68 of the Justice Select Committee's report: Youth Justice, HC339, 14 March 2013

and (c) that the additional funding being provided by the Ministry of Justice to train restorative justice facilitators extends to care home staff. (Paragraph 16)

The MoJ, the YJB and the Department for Education (DfE) agree that children should not be charged with criminal offences as a result of behaviour which would not lead to police involvement in the family home. The DfE has embarked on a substantial programme to reform care in children's homes.

Every looked after child is required to have a care plan and a placement plan, which includes the arrangements for their day to day care. Where a child is assessed as being at risk of offending, these plans should include the support measures needed to prevent this. The DfE has just published the report of the Expert Group on children's homes quality and announced a wide ranging programme of reforms. This work will support the development of improved approaches to commissioning so that placements for looked after children in children's homes are more effectively matched to young people's needs, providing them with the support required to address potential offending behaviour.

In addition, this summer DfE will be carrying out a comprehensive review of the training, qualifications and career pathways for existing and new staff working in children's homes, which will inform the development of a training and qualifications framework for the sector. As part of this work, consideration will be given to training, such as restorative justice training which will enable staff to promote among young people positive socially aware behaviour and prevent unnecessary criminalisation.

In respect of the specific issue of the police being called to deal with incidents in children's homes, the YJB considers that there are a number of areas of improvement required in respect of current practice and will be looking to work across Government, including with the Department for Education and the Home Office, and with key stakeholders, such as the Association of Chief Police Officers (ACPO), the Crown Prosecution Service (CPS) and Ofsted, to explore with them where changes may need to be made.

The CPS advises that the legal guidance in relation to the prosecution of youths is regularly reviewed and that prosecutors are reminded of its importance. A feature on the prosecution of looked after children and a link to the guidance was included in the August 2012 edition of the national CPS Law and Policy Digest, which is mandatory reading for all prosecutors. The CPS does not consider that a further review at this stage is necessary. The decision to prosecute is subject to judicial review if there is concern that the CPS has not correctly applied its policy or guidance in a case. Proceedings can also be held to be an abuse of process and stayed if they reach a certain level of inherent unfairness. The CPS may also discontinue a case if further information or representations show that the public interest does not require a prosecution. The CPS considers that these safeguards are sufficient to prevent the inappropriate or discriminatory prosecution of looked after children.

Recommendation 3: We find it difficult, on the evidence currently available, to draw firm conclusions about the impact of spending cuts on the prevention agenda, and the longer-term impact of spending cuts is something which we will keep under review. The continuing downward trend in first-time entrants to the justice system, and indeed in crime levels as a whole, indicates that they have not yet had a detrimental impact, although it may be that any impact has not yet been felt. The addition of Police and Crime Commissioners to the funding landscape presents opportunities and risks and we do not underestimate local apprehension about the potential for the commendable progress achieved over the last few years to be reversed. The best way to persuade Police and Crime Commissioners of the case to

invest in youth crime prevention will be via clear analysis of the long-term cost benefits. We therefore recommend that the Youth Justice Board dedicates greater priority and resources to providing hard evidence of what works and that the Chair of the Board continues to engage with Police and Crime Commissioners and their representative body so that the transition does not damage service continuity.
(Paragraph 32)

The YJB agrees with the Committee's recommendation that the Chair of the Board should continue to engage with Police and Crime Commissioners (PCCs) to raise awareness about the importance of early intervention and prevention. The Chair of the YJB continues to engage with the newly elected PCCs to discuss the youth agenda, disseminate information about the importance of investing in early intervention and to support their understanding of the complex youth justice landscape. Further work will be delivered to support local teams and national engagement as the PCCs set up their commissioning arrangements ready for 2014/15.

The YJB has made considerable efforts over the past two years to improve the quality and quantity of the information generated about effective practice in youth justice. The YJB will publish advice this summer on small scale evaluation methodologies and techniques which supplements existing advice on programme development methodologies.

The YJB has developed an effective practice library containing examples of practice submitted by the sector, and has worked in partnership with others to improve the classification of this practice in accordance with the quality of evidence which exists as to its potential effectiveness. Notable examples of this are the YJB Effective Practice Classification Panel and the Wales Practice Development Panel which both draw in expertise from the academic and research communities to guide interpretation of the available evidence. The YJB has also jointly commissioned (with Greater Manchester and Birmingham local authorities) the Social Research Unit's Investing in Children report which provides cost-benefit analyses of proven interventions. In the year ahead, the YJB will publish research to improve the evidence base including on the knife crime prevention programme. In relation to the dissemination of this information to its intended audience, the YJB will make greater use of national and regional events to provide opportunities for services to showcase their practice. In addition, MoJ will publish findings on the delivery lessons of the Youth Justice Custody Pathfinder pilot that aims to test an outcome based commissioning model to reduce youth custody.

Recommendation 4: There is a limit to what criminal justice agencies can achieve in preventing youth offending. Young people in the criminal justice system are disproportionately likely to have high levels of welfare need and other agencies, in particular children's and social services, have often failed to offer them support at an early stage. We believe that the overall approach of the Troubled Families agenda has the potential for success. However, we are disappointed by the recent finding of the National Audit Office that the Government does not plan a significant shift in resources towards early intervention, despite the strong evidence that it is cost-effective in the long term, and we are concerned that the Department for Education and local children's services departments are becoming increasingly disengaged from the youth justice agenda. It is possible that early intervention has contributed to the success of the Youth Justice Board in reducing the number of young people entering the criminal justice system. If this is the case, there is a real danger that progress will be reversed, but the effects will not be seen for several years. We recommend that the Youth Justice Board undertakes research into the

contributory factors to these reductions, and the cost-benefits of this work, to enable better decision-making about the distribution of funding. (Paragraph 33)

The Government and the YJB support the Committee's view on the critical importance of effective early intervention, the crucial role for education and children's services in promoting good outcomes for children and families and the impact on preventing youth offending. The Department for Education remains engaged in the youth justice agenda, recently working closely for example with the MoJ on the development of the recent Green Paper, *Transforming Youth Custody*, and will contribute to the development of the resulting strategy. Other examples of the Department for Education's continuing contribution to improving outcomes in youth justice include identifying young offenders as a vulnerable group in the schools admissions code and extending the Youth Contract for 16-17 year olds to include young offenders leaving custody.

The DfE recently competitively tendered for the establishment of the Early Intervention Foundation. The Foundation will champion and support the move to greater use of early intervention approaches and be able to give practical, evidence-based advice to local commissioners and providers. The DfE is also increasing the overall funding for early intervention, from £2.2bn in 2011-12 to £2.5bn in 2014-15. This includes money to provide early learning for two year olds – which DfE is doubling to £760m in 2014-15. Evidence shows that this is one of the most important types of early intervention. The Government remains committed to early intervention, which is why we have given local councils the freedom to target their resources to best support the needs of local communities.

The Troubled Families programme is also on course for success. Councils are progressing well in identifying the actual families who will be eligible to be part of the programme, with more than 66,000 families already identified by March 2013. Ahead of expectations, local authorities reported in January 2013 that they had successfully turned around the lives of 1,675 troubled families after just nine months of the three year programme. This means that the children in those families are regularly in school and not committing crime or that the adults in those families are in work.

The YJB is currently undertaking a 'Youth Prevention Cohort Study' which examines how prevention interventions are delivered within England and Wales, and will include an analysis of offending for the cohort. The intention is to publish the report in December 2013. Regarding the reduction in numbers of first time entrants, the MoJ and the YJB have conducted analysis on routinely available administrative data to assess drivers of falls. A summary of the findings is included in the *Youth Justice Statistics 2011/12: England and Wales*, which was published in January 2013. A copy of the report can be found here: <https://www.gov.uk/government/publications/youth-justice-statistics>

Recommendation 5: Out-of-court disposals can provide a proportionate means of dealing with less serious youth offending. While we welcome the fact that the greater discretion afforded by the new Youth Caution will facilitate a more individualised response to young offenders, it is important that safeguards are built in to ensure its proper use, and public confidence in it, particularly in cases of repeat offending. We recommend that local criminal justice boards are given a more robust oversight role, and that they should carry out random sampling of out-of-court disposals on, for example, a monthly basis. (Paragraph 39)

The introduction of the Youth Caution allows police and prosecutors more discretion in determining whether to offer an out-of-court disposal and to make this decision based on the circumstances of the offence and offender rather than as part of an arbitrary escalation

process. The MoJ and the YJB believe that joint working with partners such as Youth Offending Teams will act as a safeguard against inappropriate "repeat cautioning" without interventions to prevent further offending. The new youth caution brought into effect for offences committed from 8 April provides a statutory requirement for the police to consult the youth offending team where they are considering a second or subsequent youth caution. This is supported by police use of the Association of Chief Police Officers' Gravity Matrix to determine whether an offence and/or offender is suitable for an out of court disposal. The introduction of directly elected Police and Crime Commissioners will also ensure that police forces are more responsive and accountable to the public they serve.

For quality assurance purpose, and to reassure the public that they are being used appropriately, police forces in some local areas are already choosing to establish arrangements to retrospectively scrutinise their use of out-of-court disposals. The Government will continue to work with ACPO to develop and recommend best practice in relation to this. This will be shared with PCCs, Police Forces and Local Criminal Justice Agencies so that they can consider what approach is suitable in their areas. The Government has announced that the simple caution (for adults) is to be reviewed. The youth caution is not directly involved in this review but if the review identifies a change in overall practice this may read across to the youth caution.

In addition, the YJB is encouraging local areas to establish oversight panels for out-of-court disposals and to include magistrates on these panels to help share learning and strengthen judicial confidence in these disposals and their use.

Recommendation 6: The high proportion of young offenders with speech, language and communication needs and/or a learning disability face enormous difficulties in understanding court proceedings, which may jeopardise their right to a fair trial. We consider that section 104 of the Coroners and Justice Act 2009, which would allow young people prosecuted for an offence to apply to the court to give evidence through an intermediary, could provide an important safeguard for their rights. Parliament has decided that this provision is needed, and we therefore recommend that the Ministry of Justice brings this section into force. (Paragraph 46)

The Government decided to defer implementation of section 104 of the Coroners and Justice Act 2009 until full consideration could be given to the practical and resource implications.

The Government is committed to ensuring that all trials are fair, and a variety of measures are available to courts to secure this basic right for vulnerable defendants. These include giving evidence by live link and, where necessary, a judge may order the assistance of an intermediary. Guidance on the process for appointing intermediaries in such circumstances was issued to all courts last year. In these circumstances there is no immediate need to bring Section 104 into force and the Government has no plans to do so at this time.

Courts have a responsibility to check throughout a case that the defendant understands what is going on and much can be done to assist by the defendant's own legal representative. One of the qualifying criteria for criminal legal aid is that the defendant may not otherwise be able to understand the court proceedings. Defendants vulnerable in this way should therefore always be represented in court.

The YJB would welcome the addition of intermediaries to support defendants with speech, language and communication needs and/or learning disability through the justice process. It is acknowledged that this provision is already available for witnesses and victims. With the 'presumption of innocence' being a key principle within our legal system, the YJB considers that such provision should be afforded to defendants too, particularly since it is recognised that many young people in the youth justice system have speech, language or communication needs, for example 60-90% of young offenders in custody have communication disorders². In recognition of this, the YJB has worked closely with the Royal College of Speech and Language Therapists to include a screening tool within the new AssetPlus assessment framework for the youth justice system to identify these needs and look at ways to address them.

Recommendation 7: We also note strong neurological evidence that individuals mature at different rates and can continue to develop relevant attributes, such as consequential thinking, into their early 20s. We therefore encourage the Sentencing Council to continue with its approach of including age and/or lack of maturity where it affects the responsibility of the offender as a factor in offence guidelines, and reviews at an appropriate juncture the extent to which sentencers are taking maturity into account. Probation officers should make more references to maturity in pre-sentence reports, to assist in this process. Until it is more fully reflected across offence guidelines, we recommend that the Ministry of Justice encourage the Sentencing Council to draw up an overarching set of principles for the sentencing of young adults, to allow for maturity to be taken into account in more circumstances. (Paragraph 47)

In 2011 the Sentencing Council introduced consideration of age and/or lack of maturity - where it affects the responsibility of the offender as one of the factors reducing seriousness or reflecting personal mitigation - in its final guidelines for assault, burglary and drugs. The Sentencing Council will continue to consider how sentencing guidelines might be improved in the future to fully reflect what factors should mitigate sentencing.

It is the responsibility of probation professionals, however, to make specific recommendations at pre-sentence stages that take the specific needs of offenders into account. At present the MoJ considers that the single sentencing framework that applies to all adults is sufficient, and we do not think it is appropriate or necessary to recommend the substantial work necessary in further differentiating a sentencing regime for young adults.

Under MoJ proposals for Transforming Rehabilitation³ providers can offer innovative approaches that reflect specific needs of individuals when they deliver the requirements of the courts in order to reduce reoffending.

Recommendation 8: We consider that, in exceptional circumstances of significant welfare need, it may be more appropriate for a young person prosecuted in the criminal courts to be referred to the family proceedings court. We therefore recommend that the Government introduce legislation to provide a mechanism for

² Hughes, N., Williams, H., Chitsabesan, P., Davies, R., & Mounce, L. (2012). *Nobody made the connection: The prevalence of neurodisability in young people who offend*, Children's commissioner. Findings are based on a structured literature review of UK and international literature. This approach led to 156 sources for inclusion in the review.

³ "Transforming Rehabilitation - a revolution in the way we manage offenders", MoJ consultation paper published 9 January 2013.

the judiciary in the criminal courts to refer under-18s brought before them to the new single family court. (Paragraph 52)

The criminal courts, and in particular the Youth Court, are best equipped to determine guilt and, where necessary, the appropriate sentence. This includes recognition of the damage caused to victims and making it clear to the youth offender what is and is not acceptable.

Youth offending teams should refer cases to Children's Services where there may be welfare issues. The YJB believe that strong joint working and provision of services between Local Authority children's services and youth justice services are critical to effective delivery.

Recommendation 9: There will always be a need to detain a small number of young people who pose a risk of serious harm to the public. However, youth custody is expensive and ineffective in reducing re-offending; it should only be used in cases of genuine last resort. We are greatly impressed by the collaboration between the Youth Justice Board, youth offending teams and the judiciary to bring about a significant reduction in the numbers of young people in custody since 2008. The new remand framework should provide a welcome means of further reducing the youth custodial population and we are optimistic about the results of the Youth Justice Reinvestment Pathfinders, which we hope will encourage local areas to pursue innovative alternatives to custody. However, the juvenile secure estate continues to receive two-thirds of Youth Justice Board spending, yet is responsible for only a fraction (6.7% in 2011/12) of young offenders given a court disposal. The number of young black men in custody has not declined to the same extent as in the white population and too many young people end up in custody for breaching a statutory order. We consider there is scope for further progress in a number of respects. (Paragraph 72)

and recommendation 10d) In order to cement and further this recent progress, we therefore recommend that the Ministry of Justice outline its strategy to reduce the number of young black men in custody;

The MoJ and the YJB agree that youth custody is expensive and not delivering good enough results in reducing offending. Whilst we have been successful in reducing the overall number of young people in custody, the cost of the custodial estate remains high. This is why we published the consultation: "*Transforming Youth Custody: Putting education at the heart of detention*" seeking proposals from a wide range of organisations and individuals on implementing our plans for quality education at the heart of detention.

A youth rehabilitation order with intensive supervision and surveillance must be considered before a court may impose a custodial sentence and, through the Legal Aid, Sentencing and Punishment of Offenders Act 2012, the Government has recently taken steps to make such orders more robust. For example, the maximum length and duration of a curfew order has been extended to 12 hours a day and 12 months in total.

The MoJ and the YJB recognise that the over-representation of young black men in the youth justice system is a significant challenge and are committed to reducing the number of young black men at every stage of the youth justice system. Partners across government are working collaboratively to ensure there is a coordinated approach to address the over-representation and improve outcomes. First and foremost, we recognise the importance of focusing on reducing the number of young black men who have contact with the young justice system, by working with communities and intervening early.

Once in the youth justice system, a number of measures have been or are being taken that are expected to impact on the over-representation of young black men in custody, although they are not specifically targeted at addressing this issue they are aimed at tackling routes into custody where young black men are disproportionately represented. These include: focused cross-Government work on ending gangs and youth violence, promotion of the establishment of compliance panels to look in depth at why a young person is not complying with an order, new remand legislation that includes a condition that there is a real prospect of a custodial sentence to be eligible for a secure remand and YJB work looking at disproportionate representation of young black men in custody.

The YJB will continue to work in partnership with key stakeholders, and has arranged meetings with the voluntary and community sector and faith groups which will help to identify specific points in the journey of offenders, or specific groups or geographical areas where there is potential to impact upon BME offending rates. The YJB is also committed to promoting effective practice across the youth justice system to ensure that the needs of young people from diverse communities are met.

The YJB has launched a breach toolkit and a compliance framework to support Youth Offending Teams in tackling the issue of the number of young people ending up in custody for breaching a statutory order. The YJB will continue to focus on this issue in the year ahead as part of a wider programme of work to reduce reoffending.

Recommendation 10: In order to cement and further this recent progress, we therefore recommend that the Ministry of Justice:

a) Introduce a statutory threshold, based on the Canadian model, to enshrine in legislation the principle that only the most serious and prolific offenders should be placed in custody;

The Government considers that introducing a statutory threshold for custody for under-18s based on the Canadian model would be too prescriptive and may place the public at significant risk.

There are already adequate safeguards to ensure that a custodial sentence is imposed only where an offence is so serious that neither a community sentence nor a fine alone can be justified, and where a youth rehabilitation order with intensive supervision and surveillance or with intensive fostering is also not justified. In determining whether an offence has crossed the custody threshold a court will need to consider whether the offence has resulted, or could reasonably have resulted in, serious harm. When sentencing a person who is under-18, the court is required to take into account the circumstances, age and maturity of the young offender.

b) Devolve the custody budget to local authorities to enable them to invest in alternatives to custody;

The Government agrees that comprehensive and effective community sentences are a crucial element of the youth justice system and the Government has recently taken steps to increase courts' flexibility to use them, for example by allowing courts to make a referral order whenever they consider it suitable by removing the restriction on repeated use. In addition, the Youth Rehabilitation Order contains two high intensity requirements which are specifically available as alternatives to custody and which the courts must consider before giving custody. It is the case that the availability of these, particularly intensive fostering, is dependent on investment from local authorities. There has been widespread

support in recent years from a range of organisations, including the YJB, for custody budgets to be devolved to local authorities to enable them to invest in alternatives to custody, while the MoJ and the YJB are keen to learn any lessons from the recent devolution to local authorities of financial responsibility for remands, ideas as to how to strengthen custody/community links in general, the Government is not currently persuaded of the benefits of devolving custody budgets in full to local authorities.

c) Monitor and report back to us in February 2014 on the success or otherwise of compliance panels in reducing the need to bring young offenders back before the courts for breach of a statutory order;

According to data for 2011/12, 2,571 young people were sentenced for breaching a statutory order. Sixteen per cent of them received a custodial sentence as a result of that breach. Following on from the Green Paper of December 2010 - *Breaking the Cycle: Effective Punishment, Rehabilitation and Sentencing of Offenders*⁴ - the YJB consulted with youth offending teams about the structure and form of compliance panels. Having concluded that there was no 'one size fits all' answer, the YJB developed a Compliance Panel Framework for YOTs which offers a focus on effective engagement, the identification of key stages and options for intervention, four compliance panel models/approaches and examples of effective practice from pilot youth offending teams. The YJB are now setting up a review to look at youth offending teams' use of compliance panels and identify and disseminate any further best practice in ensuring compliance with sentences. We will report back to the Committee by February 2014 on the success of these panels.

e) Encourage greater feedback to sentencers on the outcomes of community sentences. (Paragraph 73)

The MoJ and the YJB support and encourage the provision of greater feedback to sentencers on the delivery of sentences and progress of offenders. We believe that this is generally best provided through the development of close working relationships between youth offending teams and sentencers at a local level. We are also keen for sentencers to take the opportunity through their local contacts with youth offending teams to find out more about sentence delivery and to ask for feedback on outcomes of community sentences.

Recommendation 11: We welcome the Government's commitment to restorative justice; however we believe more should be done to make restorative justice integral to the youth justice system. As the Northern Irish experience demonstrates, restorative justice is not a "soft option" and can in fact contribute to greater public confidence in the justice system. We were very impressed by the extremely high levels of victim satisfaction in relation to youth conferencing in Northern Ireland as well as the high level of compliance with conference plans. We advocate a presumption that the sentencing process will include a restorative element for the vast majority of offenders at all levels of the system, as an addition to, rather than a replacement for, the range of other requirements that may be considered necessary by the courts. The Government should also consider how young offenders with speech, language and communication needs who might benefit from restorative justice can be better assisted in participating in such a process. (Paragraph 79)

⁴ "Breaking the Cycle: Effective Punishment, Rehabilitation and Sentencing of Offenders", December 2010. Ministry of Justice.

The YJB is committed to widening the use of restorative justice across all parts of the youth justice system, and as part of this work, has provided a grant to every Youth Offending Team (YOT) to support the cost of training two staff members as restorative justice conference facilitator trainers. These individuals will cascade restorative justice training to other staff and volunteers working within the YOT, and this current training programme will significantly increase the opportunities to provide restorative justice within the youth justice system. It is the role of facilitators to ensure that they are taking account of any special needs that anyone attending the restorative meeting may have to ensure that each person can fully participate in the process. Over the year ahead, the YJB will be looking at ways to further embed restorative justice practices, and we will be looking specifically at widening the use of restorative justice in custody.

Building on the extensive programme of work already undertaken in partnership with the Communication Trust to raise awareness of speech, language and communication needs in the youth justice system, the YJB will focus on the dissemination of effective practice in this area in 2013-14. The YJB will consider restorative justice needs as part of this work.

Recommendation 12: In the short term, enhanced units, such as the Willow unit at HMYOI Hindley, can provide a means of supporting particularly vulnerable young people in custody. However, they are not a panacea and cannot cater for the level of need within the secure estate. It is safer and more humane to detain young offenders in small, local units with a high staff ratio and where they can maintain links with their families and children's services. Such links can also lead to better planned resettlement and therefore reduce the likelihood of reoffending, although we do not believe that effective rehabilitation can often take place in the secure estate itself, as currently constituted. In the long-term, when the youth custody population has reduced further still, we would like to see a complete reconfiguration of the secure estate along these lines facilitated through regional commissioning of custodial places. We were impressed with the effective MultifunC treatment model used in Scandinavian countries and ask the Youth Justice Board to give serious consideration to whether a pilot scheme could be introduced in England and Wales. (Paragraph 88)

The Government and the YJB are currently considering responses to the Green Paper '*Transforming Youth Custody: Putting Education at the Heart of Detention*', in which we invited proposals on how we can deliver custody more effectively to reduce reoffending; we have simultaneously reviewed international models like MultifunC. We recognised in the consultation that some children do require a greater level of support and that this must continue to be available as we implement our vision for quality education at the heart of detention.

Recommendation 13: It is unacceptable that vulnerable young people continue to die in the custody of the state. We agree with INQUEST and the Prison Reform Trust that it is imperative to draw together and act upon the learning from these deaths gathered through coroners' Rule 43 recommendations and juries' narrative verdicts, to ensure that such deaths do not happen again. This may require an independent inquiry into the deaths of young offenders and young adults in custody, as the Ministry of Justice is now considering. We will revisit this matter once the Minister has announced the outcome of this consideration. (Paragraph 91)

After careful consideration, the Government does not accept the recommendation by INQUEST and the Prison Reform Trust in their report 'Fatally Flawed' that there should be an additional independent inquiry into the deaths of young people and young adults in custody.

Each death in custody is subject to an investigation by the Prisons and Probation Ombudsman and police alongside a Coroner's inquest. For those under 18 a Serious Case Review is commissioned by the relevant Local Safeguarding Children's Board. In addition, the Prisons and Probation Ombudsman has developed a programme of learning lessons publications that focuses on themes emerging from individual cases. There is therefore an established, independent means for scrutinising deaths and we do not consider that an additional independent review is required.

We are though, strongly committed to learning the collective lessons from recent deaths so that we can improve how we care for young people. The YJB has an ongoing programme of safeguarding work which is centred around learning from deaths in custody and is particularly focussed on addressing the concerns raised by the investigations and reviews which have followed the most recent cases of young people (aged under 18) who have died in custody. The YJB also carefully considers findings in the cases of young adults who have died in custody to identify themes and trends which support the case for change in particular areas. In 2012 the YJB conducted an exercise to review their activity against the recommendations made after the deaths of young people in custody which occurred between 2000 and 2010. The YJB will publish a report in autumn 2013 which details findings and identifying what further action is needed. NOMS has a well established team dedicated to learning from deaths and self harm and continues to improve the dissemination of good practice across the prison estate. In addition, following receipt of the draft Prisons and Probation Ombudsman reports into the deaths of three young people in 2011 and 2012, NOMS has established a working group to draw out and disseminate learning from these deaths. The Prisons and Probation Ombudsman is represented on the working group.

Recommendation 14: It is matter of serious concern to us that, despite the fact that the use of force in restraining young offenders has now been definitively linked to the death of at least one young person in custody, the use of restraint rose considerably across the secure estate last year. We welcome the fact that the new policy limits the use of force against young offenders but consider a more fundamental cultural shift is required. We intend to keep a watching brief on this issue and recommend that Her Majesty's Chief Inspector of Prisons reports on the implementation and impact of the new policy in more detail in his Annual Report to Parliament. (Paragraph 97)

In challenging situations restraint is sometimes necessary to ensure the safety of the young person, other young people and staff. The Government is currently rolling out a new system of restraint, called Managing and Minimising Physical Restraint (MMPR), to Secure Training Centres and under-18 Young Offender Institutions that emphasises the importance of effective behaviour management to avoid restraint as far as possible and manage any incidents as safely as possible. The MMPR syllabus was assessed by an independent panel of medical and behaviour management experts. MMPR requires the reporting of incidents to be far more detailed which will enable us to assess the effectiveness of the new system. We will consider carefully any reflections from HM Chief Inspector of Prisons on the implementation of MMPR.

Recommendation 15: Some of the most disturbing evidence we heard concerned the effective abandonment of looked after children and care leavers in custody by children's and social services, with devastating implications for their outcomes on release. We recommend that the Government should (a) continue to fund social workers in YOIs beyond its current commitment of 2014; and (b) in its response to our Report, set out how it is implementing the further three recommendations made by Her Majesty's Inspectorate of Prisons (HMIP) in its 2011 thematic review of the care of looked after children in custody. We also recommend that the relevant authorities do more to ensure that looked after children and care leavers in custody are able to maintain contact with family members during their detention, where appropriate. (Paragraph 105)

a) Children in the care of the local authority, or 'looked after children' (LAC), are overrepresented within the custodial population. The YJB commissioned the HMIP thematic review on the care of looked after children in YOIs. The YJB introduced dedicated social workers in YOIs in April 2005 to help meet the needs of 'looked after' young people in custody, and since April 2012 the YJB has directly funded these posts. These 22 social workers act as the bridge between custody and the home local authority to ensure that young people receive the support and help that they are entitled to receive. The introduction of these posts is important as it contributes to maintaining the safety of young people in the youth justice system by assisting Governors in meeting their safeguarding duties under section 11 of the Children Act 2004. By strengthening the links between secure establishments and home local authorities, we will particularly improve resettlement outcomes for those children and young people who are, or have been, looked after.

Social workers in YOIs work in partnership with Local Authorities to ensure that the welfare needs of young people in custody are met. They also assist in the vital role of helping these vulnerable young people with their resettlement needs so that their transition into the community is positive, and help them break the cycle of re-offending.

The YJB agrees that there should continue to be a strong social worker presence in YOIs. However the MoJ and YJB cannot commit to funding decisions for 2014 at this stage. Given the complex arrangements regarding responsibilities for 'looked after children', we will be working with the Department for Education and other partners to consider future funding options.

15b) The Chief Executive Officer of the National Offender Management Service (NOMS) provided Her Majesty's Inspectorate of Prisons with a response to its 2011 thematic review of the care of 'looked after children' in custody on 21 July 2011. In addition a key deliverable in the YJB's corporate plan for 2013/14 is to focus on the over-representation of 'looked after children' in the youth justice system and to improve the practice of youth justice services in respect of this group of young people. The YJB will work with the Department for Education, ACPO and Chairs of Local Safeguarding Children's Boards as well as YOTs and the secure estate in the delivery of this work, and to address further the recommendations in this HMIP thematic review.

In relation to the specific recommendations made by the Inspectorate:

- *The YJB and the Department for Education should agree a strategy for the coordination of services for looked after children in custody that ensures that all agencies with statutory responsibilities for looked after children fulfil their obligations;*

The DfE has put regulations before Parliament to take into account the new remand framework, introduced by the Legal Aid, Sentencing and Punishment of Offenders Act

2012, which gives all children remanded to youth detention accommodation the status of being looked after. This includes provision for local authorities to consider the support needed for this group of young people when they leave custody. In the light of the new remand arrangements, the DfE will be revising current guidance to local authorities about the support that should be provided to looked after children and care leavers involved with the youth justice system, including those in custody.

Local authority responsibility for planning for children in care and care leavers should not stop if these young people are sentenced; and, in 2011, the Department for Education introduced new regulations requiring local authorities to visit and assess the needs of those children who cease to be looked after on receiving a custodial sentence. YOTs and children's services should be sharing information and working together to assess and support the most vulnerable young people leaving custody. The revision of guidance will provide an opportunity to restate this important principle.

- *NOMS, in conjunction with the Association for the Directors of Children's Services and Chairs of Youth Offending Services Management Boards, should develop clear procedures relating to the care and management of looked after children in YOIs, accompanied by a comprehensive dissemination programme to assist staff in YOIs;*

NOMS has worked with all relevant parties to develop and implement appropriate protocols for managing looked after children. Each under-18 YOI must have systems in place for identifying on reception the legal status (including those who are "looked after") of all young people. Where a young person is identified as being currently (or formerly) looked after, Governors must encourage the responsible local authority to nominate a representative to attend and support the young person during custody. The local authority-nominated individual should be invited to attend all relevant sentence planning meetings, and be able to conduct their statutory reviews of looked after children. Governors must enable contact between young people and their home local authority if the young person received local authority accommodation support prior to custody, if they will receive local authority accommodation support on release or if they will become a 'child in need' on release. Each under-18 young offender institution must have a Safeguarding Children Manager, who is responsible for managing the establishment Safeguarding Children policy and ensuring that Safeguarding Children becomes and remains an establishment-wide approach to protect and promote the welfare of children and young people in custody.

- *There should be a national lead within NOMS with a role for ongoing review and development of the national procedures on the care and management of looked after children in YOIs, to ensure that they are kept up to date and are properly implemented.*

NOMS has established a clearly identifiable national lead for young people. They hold overall accountability for ensuring that the outcomes set out in the service level agreements between NOMS and the YJB are delivered, and are responsible for managing and addressing all issues relating to young people in custody that may have an impact on this. The post is specifically accountable for ensuring operational policies and practices relating to the care and management of looked after children in custody are delivered.

Recommendation 16: In contrast with their success in other areas, the Youth Justice Board and local agencies have failed to make any progress in reducing the level of re-offending, which has remained stubbornly around 33–35% over the past decade, and has actually risen slightly in the last two years. This may be partly linked to the reduction of first-time entrants, which means that offenders in the system today are disproportionately more challenging and persistent. Nevertheless, we are disappointed that more progress has not been made. One of the main reasons, in our view, is a lack of hard data about which interventions work best to reduce reoffending. We recommend that the Youth Justice Board dedicates

more of its budget to researching and disseminating best practice about the comparative effectiveness, and cost, of interventions to reduce re-offending. Money is tight, but this makes it all the more important that we know how best to invest it. We are concerned that, without devolution of the full youth custody budgets local areas will find it hard to invest in alternatives to custody like multi-systemic therapy and Intensive Fostering. Until this happens, where rigorous evidence of success exists, more funding should be available. (Paragraph 116)

The Government and the YJB agrees that the reoffending figures have remained high. This is why we launched our "Transforming Youth Custody" consultation, to consider how time in custody can be used positively to lead to improved outcomes, and reduce reoffending. One of the YJB's key focuses for the year ahead will be to explore how to achieve a greater impact on reducing re-offending. The YJB will undertake analysis and thematic work to identify areas where the greatest impact can be achieved on re-offending rates and, as a consequence, focus on the actions most likely to be effective. The YJB will also publish research to improve the evidence base including a follow-up study on the first young people on the Intensive Supervision and Surveillance Programme, which includes analysis on reoffending.

Over the coming year, the YJB will work more closely with local services, research bodies and academic institutions to generate more and better evidence and will work to improve methods for effectively disseminating best practice. MoJ will undertake analysis to better understand the transition from youth to adult offending and will also publish findings this summer from a study that aims to highlight how YOTs intervene with the young people under their supervision and whether they target resources to those who are most likely to re-offend.

Recommendation 17: It would be highly preferable both for the young people concerned and for the taxpayer if support needs were identified far sooner, in order to trigger earlier intervention. Where this does not happen, it is important that the youth justice system has access to the tools and staff capable of identifying needs and intervening at that stage. All children should be properly assessed for impairments, vulnerabilities and health issues, including, where necessary, neuropsychological assessments for brain injury, both on initial contact with the youth justice system and on entry into custody. We therefore welcome the Youth Justice Board's recognition of the current limitations and its intention to roll-out a new assessment framework. The Board should address the particular concern expressed to us that the revised assessment process remains inappropriate for young people with communication needs, as it is still verbally mediated, and consider whether England and Wales can learn from the e-learning assessment tool piloted in Northern Ireland. (Paragraph 121)

The YJB have received formal Government approval to progress implementation of AssetPlus, the new assessment and planning interventions framework for youth justice services. AssetPlus represents a much more comprehensive and holistic framework to allow practitioners in YOTs and secure establishments to assess and plan interventions for these critical issues. As part of the design of AssetPlus, the YJB have worked closely with the Royal College of Speech and Language therapists and have been encouraged by the feedback through various testing and consultation phases with YOTs and secure establishments of the importance and usefulness of the speech, language and communication needs elements.

The YJB are keen to explore additional tools which will help practitioners identify and address young people's needs and will explore the e-learning assessment tool piloted in Northern Ireland, which the Committee have referred to, and consider how this learning can be usefully incorporated into AssetPlus.

AssetPlus, when combined with Department of Health led work on liaison and diversion services, should help to identify and address young people's needs significantly better in the future. The Liaison and Diversion services will enable young people's communication needs to be identified at the point of arrest, and allow for a more informed charge and sentencing decision. In addition, AssetPlus provides the potential to divert those with needs away from the youth justice system and into appropriate treatment and intervention options. This programme is due to be rolled out by the NHS Commissioning Board by November 2014, subject to a successful business case.

Furthermore, the YJB has been working with the Department of Health on the Comprehensive Health Assessment Tool (CHAT), which is currently being rolled out across the youth justice system. As part of this tool, practitioners will routinely screen for Speech Language and Communication Needs along with other conditions which can result in such a deficit, such as Autism and Acquired / Traumatic Brain Injury.

Recommendation 18: We recommend that all youth offending teams and secure institutions should have access to speech and language therapists through a more systematic commissioning process. (Paragraph 124)

The Health and Social Care Act 2012 established new arrangements for commissioning health services from 1 April 2013. Health services for YOTs will be commissioned by Clinical Commissioning Groups, whilst those for secure settings will be directly commissioned by NHS England.

In May 2012, the YJB, jointly with the Department of Health, published a 'Health and Wellbeing Needs Assessment toolkit' to support the engagement of youth justice services (both YOTs and secure institutions) in the new health commissioning process. This toolkit includes a range of resources and templates for completing a needs assessment, and includes reference to Speech, Language and Communication Needs. The toolkit assists YOTs in collating data and evidencing the needs of the children and young people they work with to feed into the local Joint Strategic Needs Assessment. This will in turn inform the commissioning of services by local Clinical Commissioning Groups with a view to supporting a more systematic commissioning process to meet the needs of all young offenders in the community.

The partnership agreement between YJB and NHS England has at its heart a determination to work collaboratively between commissioners to ensure that the needs for those young people within the youth justice cohort, including those with speech, language and communication needs, are identified and managed, ensuring equal access to consistent standards of care in secure and community settings.

Recommendation 19: We have not had an opportunity to examine in detail the proposals outlined in the Government's Transforming Youth Custody consultation paper, as it was published after our inquiry had concluded, but our evidence leads us to the following conclusions. We endorse the Secretary of State's aim of improving the basic literacy of offenders but we are not convinced that it is most useful to focus resources on the secure estate, given the very low numbers of young people now in custody and the fact that their average length of stay is

currently 79 days, which makes it almost impossible to achieve genuine progress. The greater focus should be on improving transition between custody and the community—and we therefore strongly support those parts of the consultation relating to this issue—and on improving provision in the community and ensuring as far as possible that young people leaving custody can resume their education, preferably at their original place of study. This may require incentivising schools and colleges to take back difficult students. We also draw the attention of schools and colleges to the need to provide information to secure institutions regarding the educational levels of young offenders, so that their educational progress is not impeded while they are in custody. (Paragraph 128)

The Government welcomes the Committee's comments on the Green Paper. While many young people are remanded or sentenced to custody for a relatively short period, the Government nevertheless believes that this period can provide an opportunity to begin raising educational ambitions and levels of achievement, and tackling the causes of offending behaviour. This is especially true for those young people who have led chaotic lifestyles and for whom a custodial sentence may represent an unprecedented period of stability.

The Committee is right to highlight the importance of improving transition between custody and the community, and this was a key theme of the Transforming Youth Custody consultation. Important progress can be made in custody, but it is clear that this must continue after release if a young person is to break the cycle of offending and re-engage with education, training or employment. Having a school or college place to return to is vital for those young people seeking to continue their education after release, and we are exploring how links between custodial establishments and community education providers can be strengthened to promote greater continuity of provision and improved information sharing.

Recommendation 20: Despite being a recognised problem for many years, finding suitable accommodation for young offenders released from custody is still a major issue. Until this is resolved, it will be impossible to make good progress towards reducing the very high reoffending rates for custodial sentences. Good resettlement planning and aftercare is essential for reducing levels of re-offending. The regional resettlement consortia model appears to offer a means of improving outcomes for young offenders and we expect the Government to update us in its response to our Report on progress towards meeting its target for regional resettlement consortia to be fully funded and operational in all areas. (Paragraph 133)

The Government agrees that good resettlement planning and aftercare are essential to reducing levels of re-offending. This is why the recent Green Paper invited ideas for ways to close the gap between custody and community. Lessons learned from the regional resettlement consortia will be important in this context.

Whilst the YJB's objective has been to embed strong partnership working across local areas on resettlement, there was never an intention to have resettlement consortia in every area. The resettlement consortia model has now been rolled out in seven sub regional areas across England and Wales; six across England in the North West, South West, South East, Birmingham, Wessex and West Yorkshire and one in Southern Wales. Each consortia consists of between four and six local authority partners and other statutory partners such as probation and police along with partners from the voluntary and community sectors. They are each centred around one YOI with secure children's homes as partners in some of the areas.

This model, as initially funded by the YJB, has delivered positive outcomes for young people in terms of access to education, training and employment. Despite the successes achieved by the multi agency consortia model, access to suitable and sustainable accommodation however remains a significant challenge for a small number of young people leaving custody.

As of April 2013 YJB funding for these resettlement consortia initiatives has come to an end. Each consortia has either secured local funding or is currently exploring ways to continue with the work through utilising alternative sources of funding. The YJB will continue to offer advice and expertise and has a role in disseminating the effective practice learning from this work. In addition, the YJB has recently worked with the Department for Communities and Local Government to develop effective practice for YOTs on helping them access suitable accommodation for young people.

Recommendation 21: We support the reduction in rehabilitation periods introduced via the Legal Aid, Sentencing and Punishment of Offenders Act, which means that many young offenders' convictions will become spent sooner. We also agree with the Minister that employers, as well as schools, colleges and universities, should consider taking young people on despite their previous offences, as many do. Nevertheless, while we recognise that for very serious offending, disclosure of convictions will continue to be in the public interest, we consider there is potential to go further in relation to more minor convictions. We therefore recommend that, in addition to keeping the youth rehabilitation periods under review, the Government considers legislating to erase out-of-court disposals and convictions from the records of very early, minor and non-persistent offenders at the age of 18, so that they cannot be disclosed to employers under the Exceptions Order to the Rehabilitation of Offenders Act. (Paragraph 136)

The MoJ recognises that young people should not have their futures blighted by a minor misdemeanour committed as a youth. It has recently responded to a Court of Appeal judgment (*R(T) v Chief Constable of Greater Manchester and Others*) handed down in January. In this case, the Court held that the Police Act 1997 and the Rehabilitation of Offenders Act 1974 (Exceptions Order) 1975 are incompatible with Article 8 of the European Convention on Human Rights in that they provide for the disclosure to employers of, and allow employers to ask about and take into account, all spent convictions and cautions on a blanket basis. The Court found this regime, in so far as it relates to historic and minor spent convictions and cautions, to be disproportionate.

The Government has just brought forward affirmative secondary legislation to amend the Exceptions Order to the Rehabilitation of Offenders Act 1974 and the Police Act 1997 which will provide for certain cautions and convictions not to be subject to disclosure in the future. All cautions and convictions for specified serious sexual and violent offences, and other specified offences with relevance to safeguarding people in vulnerable circumstances, will continue to be subject to disclosure. Other offences, cautions and equivalents received as a young offender will not need to be disclosed, nor will they be able to be taken into account by an employer, after a period of two years (for an adult caution the period will be six years). A conviction received as a young offender for a non-specified offence will no longer be subject to disclosure after a period of five and half years (or 11 years for an adult conviction) provided this is the only conviction on an individual's record. This scheme will be brought into force if approved by Parliament. Guidance will be provided on the new provisions when they are ready to be commenced.

In order to maintain public protection spent cautions and convictions do have to be disclosed for sensitive occupations, including those involving the care of children, under the provisions of the Exceptions Order to the Act. These arrangements will nevertheless be kept under review, in particular in respect of young offenders.

Recommendation 22: The transition between youth and adult provision is a period of high risk for 18 year old offenders. We would like to see earlier planning, better information sharing and a smoother transition between youth offending teams and probation trusts, and between the youth and adult secure estate, through the national roll-out of initiatives such as the Youth to Adult Portal. We would particularly welcome better planning, and flexibility, in managing the transition of young people with mental health needs, who are at particular risk. Reforms to the youth justice system will never reap their full potential benefits unless the transition from youth to adult provision is managed more intelligently. (Paragraph 140)

The MoJ and the YJB recognise that transition between youth and adult services is a potential point of vulnerability for young people. The MoJ, YJB and NOMS are already working closely together to help improve support for young people who are transferring between the youth and adult justice systems. The YJB has taken a particularly proactive approach, as the programme of work outlined in the report acknowledges. Last September, the YJB's Transitions Framework and NOMS' Transitions Protocol were launched to promote better practice respectively for community and for custodial practitioners. Both YJB and NOMS are working with local providers to support implementation and embedding of the guidance.

NOMS and the YJB have invested £4.1m in developing the Youth to Adult (Y2A) Portal, to improve transfer of information between YOTs and Probation Services, and have also assessed the efficacy of extending the methodology to YOT to young adult YOI transfers. As suggested in the recommendation, it is planned to roll the Portal out later in 2013.

The YJB also convenes the Transitions Forum, which is co-chaired by YJB, the MoJ and NOMS and engages a range of government departments. This aims to promote collaborative working with all services involved with young people who are transitioning between youth and adult services.

The MoJ is committed, under the Transforming Rehabilitation proposals, to opening up rehabilitative services for adults and young adults to a range of new providers, who will be paid by results to help offenders turn their lives around. As a part of this we expect to see more use of innovative approaches, and for offenders to receive targeted support to tackle the root causes of offending. We will be bringing forward detailed plans in due course.

Remand Framework

The Committee wrote to the Ministry of Justice after their report was published, asking for details about the new remand framework and requesting that the MoJ's response form part of this command paper. Their letter followed concerns about the level of new burdens funding to be transferred in connection with the new framework. The joint MoJ/YJB response in respect of the consultation on this issue sets out the reasons for the changes from the figures set out in the consultation paper. The consultation paper and response can be found at: <https://consult.justice.gov.uk/digital-communications/remand-funding/>.

There was a particular concern about the use of an under-18 young offender institution (YOI) funding adjustment of -26% to reflect falls in the numbers of remandees in YOIs. We are satisfied that the most recent population data shows a significant reduction (comparing average occupancy for the year April 2011 to March 2012 with period April to November 2012) in the number of children remanded to under-18 YOIs. We did, of course, give careful consideration to the question as to whether the current level of the YOI remand population is likely to continue to be sustained in 2013/14, and there are two key factors which give us confidence this will be the case. First, we expect that the operation of the new remand framework, which was implemented on 3 December 2012, will help to prevent any rise in numbers of remands to youth detention accommodation. Second, the very fact of the transfer of financial responsibility to local authorities in April 2013 will support continued focus on practice improvements and contribute to sustaining the reductions already achieved. In addition, data on both first time entrants to the youth justice system and the population in custody (both sentenced and remanded) continue consistently to show a downward trend.

Regarding the calculation of the funding for looked after children, the 'in-custody' element of the budget was calculated using data on all remand episodes in under-18 YOIs for April 2011 to March 2012. We used the length of each remand episode to estimate the processes (such as care planning and review meetings) that must take place (as set out in the Regulations). The costs of the required processes were calculated using unit costs taken from the Personal Social Services Research Unit report, *Unit Costs of Health and Social Care 2012*. The total figure was reduced by 25%; it was assumed 25% of those detained on remand in under-18 YOIs would already have looked after child status⁵. We then applied a YOI population adjustment of -13%. The actual reduction, when comparing the remand population in under-18 YOIs for 2012/13 (year to date) with 2011/12, is 26%. However, we do not have data on the length of recent remand episodes to estimate whether the reduction in YOI remand population we have seen will have led to an equal reduction in the expected cost of extending looked after child; we expect there to be fewer remand episodes, but it is possible that those episodes will be the longer ones. Therefore, we applied only half of the 26% reduction we have seen in the under-18 YOI remand population to the LAC budget.

The 'leaving care' portion of the budget was calculated using information from the Department for Education on total annual costs of leaving care services (£238m for 2011/12), divided by the number of care leavers in a year (27,350 for 2011/12). This gave an average cost of each care leaver of £8,717 over the period for which they are eligible for care leaving services. The remand care leaver costs were calculated from this average cost and the number of children in 2011/12 remanded to YOIs who would have been eligible for leaving care provisions. It was assumed 25% of those detained on remand in under-18 YOIs would already have looked after child status. As with the "in-custody" element, we have applied a YOI remand population adjustment of -13%. NB: Leaving care costs increase over time. We estimate a steady state will be reached in 2017/18.

We have now confirmed final budgets to local authorities for 13/14 and are in the process of making these payments. We will, of course, monitor the impact of the new arrangements. We have also accepted that there may be a need for remodelling to determine the 2014/15 budget and will be seeking input from local authorities to that process.

⁵ HM Inspectorate of Prisons thematic report "The care of looked after children in custody", May 2011, estimated that 27% of children in custody had spent time in care. More recently HM Inspectorate of Prisons report "Children and young people in custody 2011-12" estimated this figure to be 30%.



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