



DATED: **March 2019**

Memorandum of understanding (MoU) for the oversight of youth justice services across England and Wales

between

Her Majesty's Inspectorate of Probation (HMIP)

and

The Youth Justice Board for England and Wales (YJB)

and

The Ministry of Justice (MoJ)

The Parties

Her Majesty's Inspectorate of Probation

Her Majesty's Inspectorate of Probation is the independent inspector of youth offending and probation services in England and Wales. We report on the effectiveness of probation and youth offending service work with adults and children. We inspect these services and publish inspection reports. We highlight good and poor practice, and use our data and information to encourage high-quality services. We are independent of government, and speak independently.

HM Chief Inspector of Probation's responsibilities are set out in Section 7 of the *Criminal Justice and Court Services Act 2000*, as amended by the *Offender Management Act 2007*, section 12(3)(a). This requires the Chief Inspector to inspect (section 1) and report to the Secretary of State (section 3) on the arrangements for the provision of probation services.

Under Section 7(6) of the *Criminal Justice and Court Services Act 2000*, HM Chief Inspector of Probation is also conferred to inspect and report on Youth Offending Teams, established under section 39 of the *Crime and Disorder Act 1998*, and bodies acting on their behalf.

The Youth Justice Board for England and Wales

The Youth Justice Board (YJB) is a non-departmental public body created by the Crime and Disorder Act 1998. It has oversight of the whole youth justice system in England and Wales and guides and advises on the provision of youth justice services. The YJB's statutory functions are to:

- Monitor the youth justice system to understand:
 - its operation
 - performance against National Standards
 - whether offending by children is being prevented
- Advise the Secretary of State on:
 - the provision of youth justice services
 - the best way to prevent offending by children
 - National Standards
- Identify and share good practice about:
 - the operation of youth justice services
 - preventing offending by children
 - working with children at risk of offending.
- Make grants to youth justice services
 - support local IT services
- Obtain and publish information from relevant authorities to enable monitoring
- Commission research to support the development of good practice.

The Ministry of Justice

The Ministry of Justice's (MoJ's) Youth Justice Policy Unit (YJPU) leads policy development in support of ministers' and wider government's goals. The unit supports ministers to define and set the strategic direction; develops policy options and coordinates policy on youth justice issues across government. It engages with government colleagues as appropriate; advises ministers on recommendations to change policy and legislation as necessary, engaging fully with operational colleagues and the YJB; and acts on ministers' delegated authority as and when appropriate.

YJPU is responsible for developing the evidence base to support policy change through work with analytical colleagues in MoJ, the YJB and Youth Custody Service and drawing on external sources of research and data. YJPU will use inspection reports, alongside other sources of information, to carry out this function effectively.

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1. Introduction

- 1.1. This Memorandum of Understanding (MoU) is agreed by Her Majesty's Inspectorate of Probation (HMIP), the Youth Justice Board for England and Wales (YJB) and the Ministry of Justice (MoJ). The MoU sets out for the public the key roles and responsibilities of these three bodies in conducting the monitoring and oversight of youth offending services (YOS) across England and Wales since the YJB's split of functions and the introduction of HMIP's new inspection methodology.
- 1.2. As set out in the Crime and Disorder Act (1998), local provision of multi-agency youth justice services is the duty of each local authority with the aim of reducing youth offending. YOS are known locally by many titles, such as youth justice services, youth offending teams (YOTs), and other generic titles that may illustrate their wider role in the local area in delivering services for children. Whilst HMIP, YJB and MoJ all play a role in overseeing the performance of YOS, local authorities are ultimately accountable for this performance.
- 1.3. This MoU defines oversight as the arrangements for overseeing and assuring the delivery of youth justice services. It sets out how we collectively use these arrangements to enhance performance in youth offending services, and, ultimately, improve outcomes for children. It also provides clarity for the sector on the roles and responsibilities of the agencies engaged directly in the oversight, monitoring, inspection and escalation of local youth justice services provided in the community. Annexes also provide detail on the escalation of poor performance and information sharing arrangements that inform the cross-agency relationships and roles.
- 1.4. The MoU recognises the distinct delivery landscape in Wales. The Welsh Government has responsibilities in relation to health, social services, education, housing, local government, language and culture and public services. Where there are areas of common interest, and to achieve key aspirations for the oversight of youth justice services, it is essential for all parties to engage with the Welsh Government at the earliest opportunity and coordinate accordingly to ensure the best outcomes for children.
- 1.5. The MoU sets out the principles that underpin the oversight model. It sets out the key aspirations that the parties share for the future oversight of YOS. The aspirations include working together to ensure that services effectively meet the needs of children and deliver improved outcomes for them.
- 1.6. The MoU also summarises the key interfaces between the parties and sets out how information will be exchanged.
- 1.7. To ensure YOS have a good understanding of how things happen and why, the parties to this MoU operate detailed oversight arrangements which may change over time but will remain underpinned by the principles set out in this MoU. The detailed arrangements will be kept under regular review and the MoU will be updated periodically to show those developments.
- 1.8. The MoU does not confer any legal powers or responsibilities and it is not intended to be legally binding. It does not set out details of HMIP's inspection methodologies or inspection standards, details of which are available on the HMIP website. The MoU does not seek to describe, in any great detail, aspects of oversight that are entirely within the remit of one of the parties, but rather it covers key interfaces that need agreement.
- 1.9. The MoU does not seek to change what is asked of youth justice services.

2. Background to the MoU

- 2.1. In December 2016, the government published Charlie Taylor's independent review of the youth justice system alongside the government response. The government recognised that the youth justice system needed reform and responded by making a number of changes, including:
 - the creation of a Youth Custody Service within Her Majesty's Prison and Probation Service (HMPPS)
 - a reform programme focussing on improving custody
 - the transfer of secure commissioning functions from the YJB to the Ministry of Justice.

- 2.2. Consequently, the YJB has undergone a significant period of change. Following the transfer of functions, the YJB completed an internal restructure to allow the organisation to best deliver the Board's new priorities while maintaining its statutory obligations. The YJB has now re-focused on its core principles as a provider of expert, independent advice to ministers and to support outstanding practice in the youth justice sector.
- 2.3. The YJB is the only official body to have oversight of the whole youth justice system and so, in the context of these changes and the refocussing of the YJB's work, it is more important than ever before that the YJB works collaboratively with our strategic partners to share intelligence and ensure effective monitoring of youth justice services across England and Wales.
- 2.4. In April 2018 HMIP made changes to the way they inspect, with a focus on driving improvements in youth offending services, where they are needed. In summary, YOS inspections are based on a risk and random approach. While this means their timing is unpredictable, YOS are inspected approximately every four years. The targeted and intelligence-led approach to these inspections means some YOS can be inspected more frequently. Inspections are based on published standards that cover a broad range of YOT work, including out of court disposals. Some inspections are conducted jointly with other inspectorates due to the holistic nature of youth offending work.
- 2.5. HMIP rate the quality of services that they inspect. They apply a composite rating for each inspection and also sub-ratings, so that those inspected can see where they have done well and where they can improve. This enables them to improve the quality of the service they are delivering.
- 2.6. All YOS are expected to produce an improvement plan following their inspections that describes how the HMIP recommendations will be addressed. HMIP will ask the YOS for an update or will conduct a visit in order to monitor progress against the recommendations.
- 2.7. MoJ's YJPU continues to advise ministers on policy. YJPU sits within the Policy, Communications and Analysis Group, and continues to advise ministers on policy options and engage with other government departments.

3. Underlying principles

- 3.1. The oversight arrangements are underpinned by the principles of good regulation and inspection set out by Hampton (2005)¹. Those principles were intended to streamline and modernise the regulatory system in order to reduce administrative burdens on those bodies subject to oversight. This section of the MoU sets out how each of the principles have been interpreted and how they apply to the oversight arrangements for community youth justice services:
 - a) **Transparency.** Insufficient transparency undermines confidence in the decision-making process. The parties to this MoU will agree and operate working arrangements in a transparent way, making clear how the performance of community youth justice services are evaluated. This MoU sets out the arrangements for the key interfaces between the parties of this MoU, and the parties will be open and transparent about any proposed changes to these arrangements.
 - b) **Consistency.** To achieve greater consistency requires agreed working arrangements which should be monitored. The key interfaces summarised in this MoU, as well as the more detailed working arrangements that operate between the parties to this MoU will be monitored by these parties. The arrangements will show how each party works alongside the others, so that oversight is understandable to all and is, so far as possible, predictable. Each party to this MoU aims to be consistent in the decisions it makes and the actions it takes.
 - c) **Accountability.** Accountability for YOS performance is the responsibility of the local authority. The parties to this MoU will be held to account for adhering to the working arrangements agreed between them. The YJB is accountable for ensuring effective ongoing oversight of youth offending services, and HMIP will be held to account for the quality of its inspections and its findings. The parties to this MoU are not accountable for the operational delivery of youth offending services. Additionally, all parties have well-published, accessible, fair and effective

¹ Hampton, P. (2005), Reducing administrative burdens: effective inspections and enforcement. HM Treasury.

complaints procedures underpinned by clear lines of accountability to ministers, parliament and assemblies and the public.

- d) **Proportionality.** The level of oversight, including the escalation process in response to poor performance, should be proportionate to the risks posed. Inspection programmes and oversight more generally will be proportionate and not unduly burdensome overall or for any individual community youth justice service. All parties will ensure, so far as possible, that any information from any party need be provided once only.
- e) **Targeted.** The targeting of oversight resources where they are most effective and at areas of highest risk is essential in providing the public with a safe and effective service. Exchanged information will be used to plan and co-ordinate oversight activities, including HMIP thematic inspections, so that they are targeted at issues and specific problems of most concern and which may potentially give rise to the most serious risks.

4. Key Aspirations

- 4.1. The parties to this MoU will work together to address the following key aspirations for the oversight of youth justice services:
- 4.2. **To improve partnership working at both local and national level.** The success of both oversight and delivery of YOS is dependent on effective partnership and meaningful relationships at both local and national level. This requires commitment, transparency and collaboration from the parties to this agreement, and effective engagement and co-operation between local partners to improve services and outcomes for children.
- 4.3. **To improve YOS performance.** The parties to the MoU will consider how best MoJ and YJB can use and respond to HMIP's findings and recommendations to ensure YOS have the tools they need to improve performance.
- 4.4. **To reduce the total oversight activity.** The parties to this MoU will seek to ensure that oversight and monitoring are proportionate to risk. Oversight will be strategic and targeted on the basis of comprehensive risk assessment.
- 4.5. **To enable innovation.** The parties to the MoU will work to ensure that oversight does not restrict innovation, but rather identifies it and incentivises YOS to share any evidenced effective practice more widely.

5. Oversight model

- 5.1. Oversight of YOS consists of three key elements (set out below):
 - (1) Ongoing oversight by the YJB;
 - (2) HMIP inspection; and
 - (3) Informing strategic direction and policy development.
- 5.2. It sits primarily across the YJB and HMIP. Each organisation takes on a distinct role within the oversight model. YOS are regulated through a combination of oversight by the YJB, independent inspection by HMIP and local authority scrutiny arrangements.

Ongoing oversight by the YJB

- 5.3. The YJB's ongoing oversight activity is founded on the assumption that YOS have their own mechanisms for measuring and scrutinising performance through their Management Board.
- 5.4. To understand whether services are working effectively to deliver the right outcomes for children and victims the YJB's oversight of youth justice services takes place on a quarterly basis through the Youth Justice Performance Oversight Board (YJPOB). Oversight through this Board is data-led and outcome focused. Performance is assessed against three Key Performance Indicators (KPIs): reducing reoffending; first time entrants; and use of custody. HMIP inspection reports contribute to assessment of YOS. This is supplemented by local intelligence. Where evidence suggests that performance is deteriorating, the YJB follows the stages set out in the escalation process provided at **Annex A**.

- 5.5. HMIP is informed at all stages of the escalation process and this informs their inspection schedule. In the event that the YJB has serious concerns about the performance of a YOS, YJPU colleagues are made aware and concerns are escalated to ministers.
- 5.6. The YJB works closely with high-performing YOTs, to understand and share examples of their practice to improve performance across the system.

HMIP inspection

- 5.7. The YJB's ongoing oversight informs HMIP's inspection schedules, in line with the principle that oversight is targeted and risk-led. During inspections HMIP focus on inputs, processes and activities. Without good quality inputs (such as professional staff and comprehensive services) and activities (such as case assessment and effective interventions) YOS are less likely to meet their strategic aims and deliver against KPIs.
- 5.8. Following inspection, HMIP make a series of recommendations. Recommendations are generally directed towards YOS or local authorities, but where change is required at strategic level these may be directed to the YJB or the MoJ, as appropriate. To ensure recommendations are accurate and appropriately targeted, HMIP share all recommendations made to the MoJ and YJB for comment in advance of publication. This ensures that recommendations are targeted accurately and that, where possible, positive action is taken forward to deliver improved services and outcomes for children.
- 5.9. Inspection outcomes inform the YJB's ongoing oversight. Unless risk indicates, HMIP inspect services approximately once every four years.

Informing strategic direction and policy development

- 5.10. Where strategic themes emerge from oversight activity, these are fed into the MoJ's YJPU to inform the evidence base for policy change.

Interfaces

- 5.11. There is deliberate overlap in relation to intelligence exchange throughout the oversight process. This overlap enriches the understanding of both the YJB and HMIP, enabling risk-based scrutiny of services and ensuring that the standards for children in the youth justice system, which the YJB advises ministers on, reflect the processes and outcomes HMIP expect to see. It also ensures a shared understanding of the indicators that show that the system aims are being achieved. Details of the interfaces are set out below.

Pre-inspection interfaces

- 5.12. Bilateral engagement between YJB and HMIP takes place quarterly, and informally at other times, when necessary. During these meetings, the YJB shares YOS performance against KPIs, and local intelligence to support HMIP's risk-led and targeted inspection planning. Terms of Reference for these meetings are provided at **Annex B**.
- 5.13. The YJB also attends the initial stages of HMIP's Youth Offending Inspection Group (YOIG) meeting. The primary objective of the YOIG is to advise on and co-ordinate delivery of the multi-agency inspection of youth offending work in England and Wales.
- 5.14. Where YOS have been identified by HMIP for inspection, HMIP informs both the YJB and the YOS simultaneously. This takes place before inspection.

Post-inspection

- 5.15. If ratings are likely to be a cause for concern, HMIP shares the indicative inspection rating with the YJB two weeks after inspection. This is followed by a copy of the embargoed report.
- 5.16. Where recommendations are directed towards the YJB or MoJ, in either core inspections or thematic inspections, HMIP shares these in advance of publication. Where strategic themes are emerging across inspections these are shared with MoJ and YJB. Strategic themes inform the YJB's ongoing oversight, enabling them to target activity and set youth justice priorities, and the MoJ's policy framework.

5.17. The recipient of any HMIP recommendations is required to respond with proposed action, set out in an improvement plan, according to the relevant timelines. HMIP will ask for evidence of progress against those actions at various intervals. That information will form part of the intelligence that informs the timing and nature of subsequent inspection activity. The local authority or YOS has responsibility for overseeing and monitoring progress against recommendations. Where performance is a cause for concern, either through HMIP inspection or YJB oversight, the YJB will focus on the improvement plan to inform ongoing oversight.

Informing ministers

5.18. HMIP have a duty to report to the Secretary of State (SoS) on the findings from inspection. In advance of every publication, HMIP highlight the main findings in a submission to the SoS. This is copied to the YJB and MoJ. If a HMIP report triggers the YJB escalation process to ministers, then the YJB shares the submission and intended recommendations to the Minister with HMIP and MoJ.

Re-inspection and monitoring progress

5.19. Discussions on progress made by inspected YOS take place through regular quarterly engagement between the YJB and HMIP. Particular consideration is given to those services rated 'requires improvement' or 'inadequate'. These discussions inform the YOIG considerations as to whether satisfactory progress has been made and whether areas should be prioritised for re-inspection.

6. Reviewing, Amending and Monitoring of the MoU

6.1. The MoU will be effective from the date it is approved by the parties to this MoU and will be subject to a quarterly review. The MoU will also be reviewed annually to ensure that the processes outlined within are an accurate reflection of practice, and are working effectively.

6.2. Quarterly reviews will be conducted between the relevant Deputy Director on behalf of the party they represent.

Signed:



Dame Glenys Stacey, HM Chief Inspector of Probation, on behalf of HMI Probation.

Date: 8 March 2019



Signed:

Colin Allars, Chief Executive Officer, on behalf of the Youth Justice Board.

Date: 14 March 2019

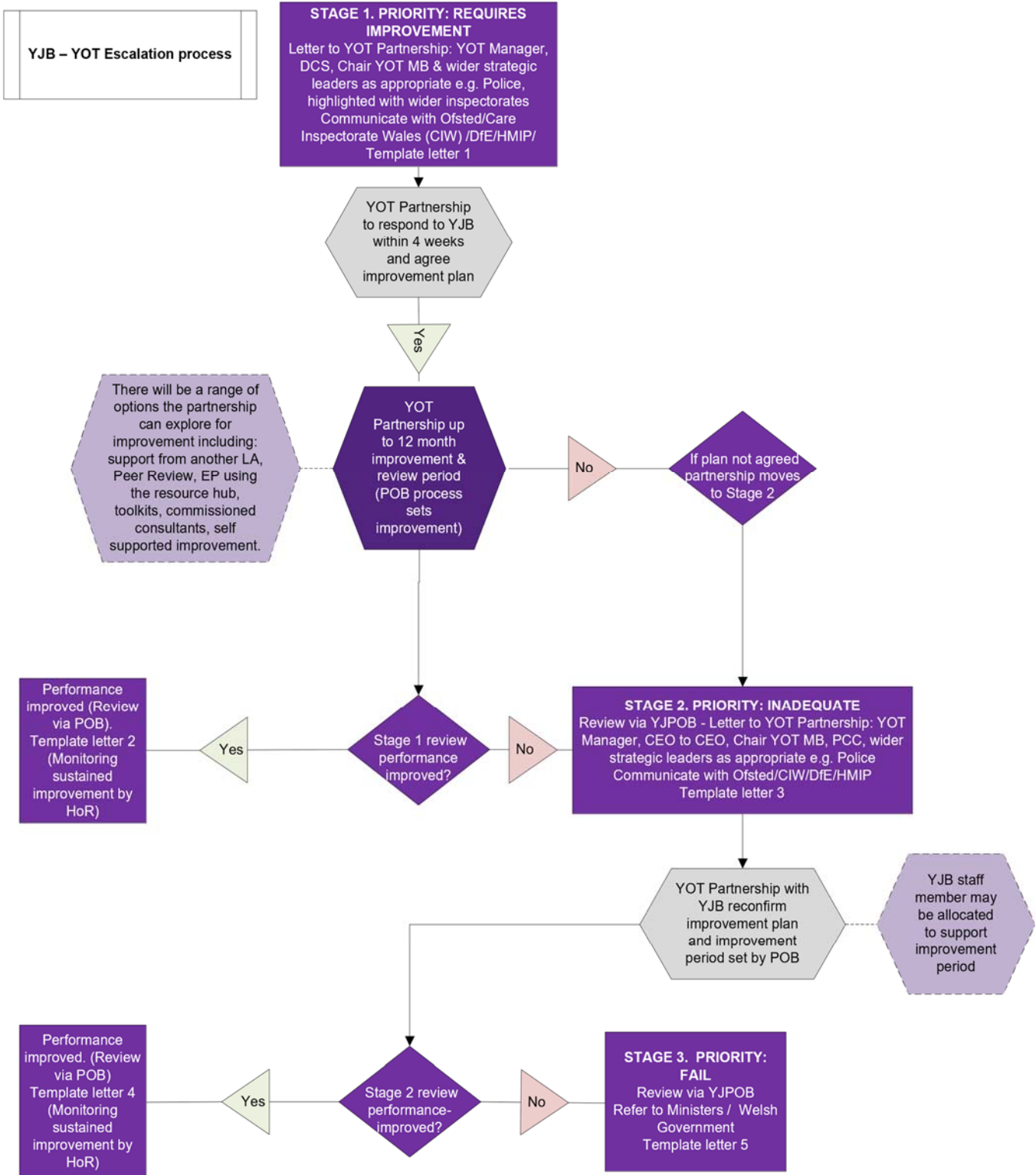


Signed

Phil Douglas, Director, Youth Justice and Offender Policy, on behalf of Ministry of Justice.

Date: 21 March 2019

Annex A - YJB escalation process for poor performing YOTs



Template letters:

- Template letter 1 – Priority status: **Requires improvement**
- Template letter 2 – Performance has improved, priority status lifted with ongoing monitoring
- Template letter 3 – Priority status: **Inadequate** – Escalation to stage 2
- Template letter 4 – Performance has improved, de-escalation with ongoing monitoring
- Template letter 5 – Priority status: **Fail** – Escalation to stage 3 (Ministers)

Annex B – Terms of Reference for bilateral meetings between YJB and HMIP

Purpose

- To provide practical structure to the stakeholder aims (as cited in the MOU 2019) to enable HMIP and the YJB to effectively deliver function of oversight, inspection and escalation of youth justice services in England and Wales.

Representation

- HMIP Head of Youth Programme and Youth Lead Inspectors.
- YJB Head of Innovation and Engagement.
- Others may be required as appropriate; such as YJB regional managers engaged in direct intervention with YOTs.

Term

- ToR is effective from January 2019.
- ToR to be reviewed annually.

Chair and administration

- Will alternate between HMIP and the YJB with a commitment to pre-set agenda and share action points expediently.

Function

- To enable consistent and coherent information sharing between HMIP and the YJB regarding the oversight of community youth justice services in relation to:
 - Service performance; both when poor or promising, Key Performance Indicator trends;
 - Live activity relative to priority YOT performance;
 - Recommendations made to the YJB during HMIP inspections; both the clarification of these and actions undertaken in response,
 - thematic observations, informing future inspection commissions;
 - communication/training/improvement opportunities provided by /open to each organisation;
 - clarify any escalation action and details of formal communications.
- The meeting will also act as a link for the YJB to the HMIP run **YOIG**. The YJB will be invited to each YOIG to share key intelligence on positive and poor performance with wider inspectorates. The YJB will not be present when inspection schedules are considered.

Data sharing

- The YJB will provide HMIP with an overview of performance in line with the most recent YJB Performance Oversight Board. This includes 'rag' rated data used for internal YJB purposes and will not be shared beyond the meeting membership.
- Any unsubstantiated information will be caveated as such.
- HMIP will provide the YJB with an early steer (post YOT clarification) of any inspection ratings that are of immediate concern. These may be referenced in the event of the YJB taking further action but not included/cited directly within onward documentation such as ministerial submissions.

Frequency

- Meetings to be held on a quarterly basis.