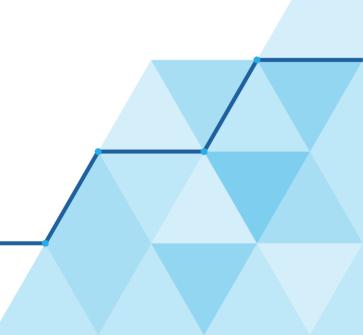


# Youth remand funding arrangements

## Response to the consultation on youth remand funding arrangements



February 2024

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## Response to the consultation on youth remand funding arrangements

Response to consultation carried out by the Ministry of Justice.

This information is also available at https://consult.justice.gov.uk/

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#### Introduction and contact details

This document is the post-consultation report for the consultation paper Youth Remand Funding Arrangements.

It will cover:

- the background to the report
- a summary of the responses to the consultation
- the next steps following this consultation.

Further copies of this report and the consultation paper can be obtained by contacting the **Youth Justice Policy Unit** at the address below:

Youth Justice Policy Unit Ministry of Justice 102 Petty France London SW1H 9AJ

Email: Remandreview@justice.gov.uk

This report is also available at https://consult.justice.gov.uk/

Alternative format versions of this publication can be requested from Remandreview@justice.gov.uk.

#### **Complaints or comments**

If you have any complaints or comments about the consultation process, you should contact the Ministry of Justice at the above address.

### Background

The consultation paper 'Youth remand funding arrangements' was published on 16 August 2023. It invited comments on the Ministry of Justice's youth remand funding arrangements to local authorities in England and Wales; and provided high-level options for the future funding. The consultation was aimed at local authorities, Youth Offending Teams (YOTs) and others working with children in the youth justice system in England and Wales.

The consultation paper set out the current system of youth remand funding and asked for views about how the funding can be used to meet the youth justice system's aim of preventing offending and reoffending by children and young people. The consultation paper provided a range of high-level options taking into consideration the key objectives:

- Enabling the creation of more robust alternatives to custodial remand;
- Ensuring a system that delivers better value for money; and
- Reducing the administrative burden created by the current system.

The high-level options provided are set out in below (Table 1).

Option 1	Make no change
Option 2a	Distribute the funding differently – pay the remand funding to regions.
Option 2b	Distribute the funding differently – change the formula for calculating local allocations.
Option 2c	Distribute the funding differently – roll it into 'core funding' to YOTs.
Option 3	End the allocations model and set up a central funding pot for bids.
Option 4a	Use the funding to improve accommodation – explore central provision of national community-based accommodation.
Option 4b	Use the funding to improve accommodation – increase spending on improving provision within the secure estate.

The consultation period closed on 8 November 2023 and this report summarises the responses, including how the consultation process influences the further development of the policy consulted upon.

A full Impact Assessment will be published alongside a final proposal in due course.

A Welsh language response paper can be found at www.gov.uk/government/consultations/consultation-on-youth-remand-fundingarrangements

A list of respondents is at Annex A.

#### Summary of responses

- A total of 46 responses were received to the consultation paper. Of these, the majority of responses (63%) were from local authorities. Other responses received were from national representative bodies working in youth justice, Police and Crime Commissioners (PCCs), and third sector organisations (see Annex A). Of the responses, 39 were submitted through the consultation hub, and seven were received by email.
- 2. Four stakeholder drop-in sessions were also held during the consultation period. There were a total of 56 attendees at these events.
- 3. The responses were analysed to gather evidence on the current remand funding arrangements, what alternatives to remand in custody there are, and reasons these may or may not be used. The responses were also analysed for interest in each option and for additional insight into each option's benefits and challenges.

#### <u>Responses</u>

- 4. Respondents broadly agreed that the current funding arrangements are not effective as they could be, and agreed with the context as set out. However, some respondents placed more emphasis on the severity of offences, courts' interest in remanding based on risk, and the significance of long investigations and long waits for a trial date as being more important factors for delivering meaningful change than the funding arrangements. Local authority levers over these aspects were felt to be limited and other partners in the remand process (i.e. the Police and Courts) were also key to outcomes. Respondents also noted that they felt the funding overall was insufficient to cover costs, and that the frequently complex needs of remanded children make the funding arrangements for SCHs and STCs more significant.
- 5. The responses about the potential options for change were mixed and did not provide a clear preferred option. The options marginally more popular were a regional model (option 2a) and a national community accommodation model (option 4a); both were selected by eight participants (17%). Many other respondents showed early interest in these ideas throughout. Responses received for both options included risks that need to be considered.
- 6. Making no change (option 1) and changing the formula for calculating allocations (option 2b) both were selected by seven participants (15%). Overall, there was a general feeling that the current system does not have the desired outcome. However, many respondents commented that the available options were not detailed enough at

this stage and needed additional evidence. There were concerns that changing the funding arrangements without evidence could lead to worse outcomes. To roll the remand funding into existing mechanisms (option 2c) was the preferred option for four respondents. On the other hand, other respondents raised concerns that if funds are not ringfenced (as under this option) they could be used for other strategic priorities to the detriment of our policy goals in relation to children remanded into custody.

- 7. The least preferred options with generally negative responses were for a central funding pot for bids (option 3) and using the funding for improving the current secure estate (option 4b). Respondents suggested that a central funding pot for bids (option 3) would require time, skills and resources that local authorities do not have equally available. Option 4b was not seen to have desired effect of reducing remand in Young Offender Institutions (YOIs) and increasing community alternatives. However, it should be noted that most respondents were in favour of increased spending on secure estates, but that this should be in addition to (rather than a repurposing of) the remand funding. Full list of options can be found under Table 1.
- 8. It was noted that the proposals set out may not alone meet the objectives due to wider challenges finding appropriate placements for children across the market, and this issue needs to be considered as part of the wider system challenges. For example, being more closely aligned to the social care reforms led by the Department of Education in Stable Homes, Built on Love.
- Respondents in the main felt that additional time was needed to design an alternative to a model that is currently not fit for purpose, building on the assessment of the LASPO Act changes outlined in the consultation, and accounting for the views of the respondents.
- 10. We have reflected the full range of opinions provided by respondents in our analysis. The content of the responses received are outlined in more depth in the detailed analysis of each question below.
- 11. We extend our thanks to all respondents for their time and effort in participating in the consultation exercise.

#### **Responses to specific questions**

### 1. In your opinion, has the current remand funding supported alternatives to custody?

Yes: 7

No: 31

Not Answered: 8

The majority of respondents were of the opinion that the current remand funding does not support alternatives to custody. While respondents stated that they seek to support children and young people with an alternative to custody, and this should remain a key consideration, the current funding arrangements makes it difficult. The main reasons listed by respondents were the higher costs of alternative accommodation, the lack of incentivisation for local authorities within the funding model, and the unpredictability and uncertainty of funding which increases the financial risks for local authorities to remand children in alternative placements. Another factor raised by respondents was a lack of suitable placements that can cater for children on remand. It was noted that the current funding model creates a perverse incentive by rewarding increased use of custodial remand. Respondents noted the complex needs of the children facing remand, and felt that mental health was insufficiently mentioned in the consultation.

Some respondents who were of the opinion that the current remand funding supported alternatives to custody stated that it enabled YOTs to find suitable placements and bail offers when requested by courts.

## 2. What type of bail with intervention or remand to local authority package do you think best meets the needs of children and protects the public? Do the community alternatives in your area meet demand?

The majority of respondents were of the opinion that any type of bail package needs to be tailored individually to meet the needs of the child while protecting the public. However, there was a general view that a bail package or remand to local authority package should, whenever possible, be local and provide integrated support from several services and agencies. Issues with education provision can, respondents said, be particularly challenging. It was noted that many children can be bailed to their home address if that option is well-understood and arranged carefully. Challenges raised by respondents were the lack of placements and the need of experienced and well-trained

staff. Intensive Supervision and Support (ISS) packages have become less common which has reduced networking and collaboration, as well as being more bespoke and more costly. Respondents felt that robust alternatives are very costly in relation to overall funding for YOTs. It was noted that bail packages for children facing certain charges would by nature need to address serious public protection concerns and be resource intensive. Some respondents would welcome more detailed guidance, with minimum standards, on managing bail ISS. Consideration of the victim's views also needs to be front and centre.

Just over half of respondents who provided a response about meeting local demand believed that community alternatives do not meet the demand. In the majority of these cases, it was due to a lack of suitable community placements. Of the respondents where community placements do meet demand, they noted that this was due to low demand and inflexibility of ISS provision.

#### 3. What influences the likelihood of community alternatives to custodial remand being presented to courts in your local area? Why do you think we have not seen a significant increase in the use of alternatives to custody?

There was a general view that there is a lack of suitable residential placements for children across welfare and health services, and this is exacerbated when placements need to be secured at short notice. Multi-agency work is crucial to ensure a community alternative is presented; however, this is challenging given the short timeframe in which these need to be prepared. Out-of-area arrests and placements is another factor that was raised. Another factor is the judiciary's confidence in alternatives and whether risks can be managed in the community. Some respondents noted that the legal changes in the PCSC Act will influence the uptake of alternatives to custody, but are still bedding in.

It was noted that community-based packages or accommodation can be more difficult in both rural areas (which may lack the resources) and in urban areas (where other residents might object to high-risk placements nearby). While best practice is strong in some areas, youth justice workers with infrequent remand cases might lack the experience to present a robust case to the court. Some respondents commented that, in some instances, custodial remand is necessary due to the seriousness of offence, such as attempted murder or terrorism-related activity, and frequent bail breaches by some children mean that courts run out of options other than to remand to custody.

Some respondents believe that there has been an increase in alternatives to custody in some rural areas, as well as in Wales, that is lost in England and Wales-wide statistics.

A small number of respondents emphasised the need to look at ways to enable children to remain in the family home on bail if risks can be managed there.

#### 4. What are your thoughts on the funding model remaining the same (Option 1)?

There was a general view that the current model does not support the development of community alternatives because, respondents said, it often does not cover the costs of alternatives, and it does not provide predictability, sustainability and longer-term strategic planning to enable them. Respondents advised that the current funding method carries an element of unpredictability and that 'spike events' (i.e. several children being involved in one serious incident) can have big financial implications on local authorities' finances. The current system was also noted to penalise those who reduce remands by using historic use of Young Offender Institutions (YOI) as the basis. An approach based on objective factors linked to youth offending was suggested instead.

However, some respondents felt that the rationale behind the funding still stands, and liked the fact that the current model gave local autonomy over decisions and budgets. There were also a number of respondents with the view that a change should only be enacted on full evidence to ensure changes do not lead to unintended consequences and that sufficient evidence was not provided at this stage.

### 5. How do you think a regional model (Option 2a) could affect the availability of community alternatives to custody?

There was a general view that while there is a potential that a regional model could be beneficial for certain areas it would be complex, present challenges and could have some unintended consequences. Respondents in favour of a regional model agreed that it would support areas to share resources and learning, this is already evident in some areas in which they collaborate on specialist placements, such as beds made available for transferring children under Section 38(6) of the Police and Criminal Evidence (PACE) Act 1984 to avoid keeping children in the police station overnight.

Respondents were of the view that a regional model requires a strong lead body and clarity of roles, including health partners. They suggested reviewing learning from the previous consortia models [2014 - 2022]. It was noted that a regional model could offset spike events and create more headroom for innovation.

Some respondents expressed concerns that funds and/or placements could be used up by one local area. It was noted that different areas may have different needs and different political arrangements which could impact the success of a regional model. There were also questions about whether it would be enforced, and whether a mandate could be given to PCCs or regional bodies, and how networks of Directors of Children's Services would be part of this. Respondents noted particular consideration would need to be given to Wales due to its geographical size; and whether the regional allocation would related to the whole country or police force areas.

There was a general view that learning from the London Accommodation Pathfinder project, the Greater Manchester pilot, and future plans for Regional Care Cooperatives (RCCs), could further improve the understanding of risks, challenges, and benefits of a regional model.

## 6. How easy or difficult would it be for your region to adopt a regional model (Option 2a)?

There were mixed views on whether it would be easy or difficult to adopt a regional model. There was a general view that the success of implementing a regional model depends on existing partnerships in the region, the geographic size, population and the diversity of the region, such as rural and urban regions.

The majority of respondents that were of the view that a regional model could be easily adopted were from areas that already appear to have strong existing partnerships in place and collaborate across areas of the youth justice system.

The main concerns raised were regarding the size and diversity of certain regions. Some large areas are very diverse and have rural, semi-rural and urban areas which present different priorities, challenges and needs. Some respondents raised the issue that regions with local authorities of various sizes could result in regions being dominated by larger local authorities.

7. Do you think our aims would be better met by amending the funding mechanism (Option 2b & 2c)? What are your thoughts on consolidating the funding relating to Looked After Child (LAC) status into wider funding for children's services?

Option 2b: Change the formula for calculating the allocations.

There was a general view that, if a change in the funding mechanism provides longerterm funding and greater certainty, it would have a positive impact. Respondents suggested that a funding model that recognises and includes alternatives to custody in its allocation would be beneficial. However, respondents highlighted that any changes to the remand funding formula would be challenging. They also highlighted the need for any reform to be transparent.

#### Option 2c: Roll the remand funding into existing funding mechanisms.

Respondents raised concerns around consolidating remand funding into wider funding mechanisms, such as the local government finance settlement, as it may result in the funding being used for other priorities. One respondent stated that their remand funding is ringfenced internally to be used very specifically to fund an ISS programme. There was a general view that if the funding is consolidated into other mechanisms, it should be ringfenced.

The majority of respondents were not in favour of consolidating all of the remand funding or the funding relating to LAC status into the wider funding for children's services. Respondents commented that any funding will likely be used to offset other increasing pressures on these services. However, some respondents noted that consolidation within local authorities does already happen where children's social care take the view that it is best to consolidate the approach to all children with LAC status. It was felt that one benefit of budgets being combined is that it would enable long term plans to resource ISS services.

## 8. Do you think that enabling funding via bids would affect the availability of alternatives to custody (Option 3)?

Yes: 16

No: 17

Not Answered: 13

The majority of respondents were not in favour of implementing a central funding pot for bids (option 3). While some respondents were of the view that it could help innovation of developing alternatives to custody, it could have several unintended consequences. There were concerns that some local authorities would not receive any funding which would reduce alternatives in certain areas as the cheapest option to remand children would be utilised. One of the main concerns raised was that applying for bids takes time and resources which would be diverted away from operational delivery. There is a general view that it is not a fair process as it is not demand- or need-led. There were concerns that it would favour larger local authorities and disadvantage smaller ones. Respondents also argued that the volatility of remand population means some areas may not get any remands but funding whilst others will get remands but no funding.

## 9. Do you think that are central approach could support alternatives to custody (Option 4)?

Yes: 17

No: 16

Not Answered: 13

### Option 4a: End the funding model and explore central provision for a national community accommodation model.

There were mixed views on whether a central approach could support alternatives to custody. It was noted that a central process can be useful if it was to bring leadership to services like remand fostering (which previously had a national system). Respondents also noted that this approach to accommodation could alleviate existing challenges, such as finding suitable placements, staffing and financial concerns. Many respondents were of the view that a central approach has the potential to enable alternatives, through commissioning power, expertise, coordination and a clear vision.

However, the majority of respondents raised questions around the placement of accommodation units and the need of a geographical spread, to ensure children are not located too far from their communities. There were also concerns that any national approach would be very resource heavy and could lack local credibility. Moreover, it was noted that competition for placements and providers nationally is high which might affect the feasibility of this model. Some respondents commented that at this point there is not enough detail to decide, and further information on the practicality of it is needed, such as commissioning, charging for beds, how to book for beds, etc. It was noted that smaller scale pilots or trials might be required for such a large change. An alternative idea was for a national model of support which could go alongside children remaining in their current accommodation or in the family home.

## Option 4b: End the funding model and increase spending on improving provision within the secure estate.

The majority of respondents were of the view that the remand funding should not be used to improve the provision within the secure estate, although they noted concerns about the challenges facing the secure estate raised in various inspection reports. Respondents were of the view that this should be done alongside the remand funding.

#### 10. Which option do you think would best meet our objectives?

#### Table 2

Option	Total
Option 1: Make no change	7
Option 2a: Design a regional model for payments	8
Option 2b: Change the formula for calculating the allocations	7
Option 2c: Roll the remand funding into existing funding mechanisms	4
Option 3: End the funding model and set up a central funding pot	1
Option 4a: Explore central provision of a national community accommodation model	8
Option 4b: Increase spending on improving provision within the secure estate	1
Not Answered	10
Total	46

There was no clear preferred option among respondents. Some of the respondents were of the view that a combined approach of different options could potentially be the most beneficial.

## 11.Do you have an alternative proposal for amending remand funding? Please explain how this is different from the options outlined in this document.

Yes: 15

No: 26

Not Answered: 5

Some of the respondents suggested that more sustainable funding (i.e. multi-year funding) or real-time funding rather than allocations based on historic trends could incentivise investment in effective alternatives. There were also proposals to include all alternatives to custody, as well as STC and SCH costs, into the remand funding model. A few respondents suggested reverting to central government responsibility to cover the costs of all custodial remands, or of remands imposed by the Crown Courts. Another idea was to look at expanding remand budgets to include custody budgets to increase the pot available to work with, pointing to the Youth Justice Reinvestment Custody Pathfinder 2011-13.

Other suggestions included focusing on funding for long remands, specifically multihanded cases, rather than short remands, which might entail a sliding-scale of bed night costs. It was suggested that a central pot to cover remand placements for multihanded, or joint-enterprise offences, could be established on top of direct payments.

It was also suggested that greater funding or support might be put towards ISS (and consideration of learning from the Youth Rehabilitation Order ISS pilots) and that custodial remands could have more regularised review points, or the use of scrutiny panels.

Another suggestion was to look beyond capital investment, particularly buildings for a national accommodation model, but to consider commissioning additional services which enable alternatives to custody, i.e., ISS services or remand fostering.

## 12. If the funding changed, what transition arrangements would be the most important to you?

The majority of respondents emphasised the need of sufficient long-term notice before any reform is implemented or the need to pilot major changes and learn from relevant pilots underway. They also noted that further communication and consultation with stakeholders is necessary to inform the new funding model. There needs to be clarity on any changes that are being made and the impact it will have on local authorities so they can best prepare for them. Careful considerations need to be made on the impact on communities, victims, young people and their families. A future review point was suggested to be built into any new system.

## 13. What do you consider to be the equalities impacts on individuals with protected characteristics as a result of the proposals? Are there any mitigations the government should consider? Are there potential positive equalities outcomes the government should consider? Please provide reasons and data if possible.

The majority of respondents stressed that youth remand is an area in which there is a significant over representation from black and mixed ethnic groups, and any changes to the funding formula will need to address this. They suggested that any development of alternatives to custody should be culturally sensitive to their needs. A note of caution was that if YOI use remains for those who cannot access community provision, then careful consideration should be given to how the new system might impact on current disparities in the system (i.e., which children receive community remands and which children receive custodial remands). There was a general view that if reforms to the youth remand funding enabled community alternatives to be developed this will have a positive impact.

Although not part of the consultation, it was raised that sector prices could used as a mechanism to ensure that any influence within the funding mechanism works equally for children of all ages (eligible for different establishments). One respondent suggested charging different amounts for remands of children with particular protected characteristics.

#### 14. Do you have any other comments on these issues?

It was noted that the issues of long remands and fluctuations are more acute in core cities and the demographic reality of custodial remands means there is some benefit to a leadership role for core cities.

Some respondents felt a full review of the remand related LASPO Act 2012 changes was needed. Others felt that a full review of the landscape of early intervention across local partners such as health, would limit siloed working and ensure that children with complex needs are supported with a single pathway.

Respondents also raised concerns around the current issues facing YOIs, including over-18s remaining in youth custody and the impact it has on the effectiveness of YOIs.

## Impact Assessment, Equalities and Welsh Language

#### **Equalities**

Section 149 of the Equality Act 2010 places a duty on Ministers and the Department when exercising their functions, to have "due regard" to the need to:

- eliminating discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Equality Act 2010;
- advancing equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
- fostering good relations between persons who share a relevant protected characteristic and persons who do not share it.

Paying "due regard" needs to be considered against the nine protected characteristics under the Equality Act. The nine protected characteristics are race, sex, disability, sexual orientation, religion and belief, age, marriage and civil partnership, gender reassignment, and pregnancy and maternity.

The consideration of the impact of proposals and the implementation of any proposals is an ongoing duty. We will set out the reform we intend to implement. At that stage we will publish a full Equalities Statement which will also take into account responses received to the consultation.

#### **Conclusion and next steps**

- 1. We will conduct further analysis to understand the impact of reforming the youth remand funding arrangements. Responses from the consultation will be taken into account when conducting the analysis.
- 2. Additional engagement with stakeholders will be conducted to further test options. Given the options being considered, local authorities may not receive direct remand payments in any form from 2025/26. We will provide as much notice about any future changes as possible, and we will consider pragmatic transitional arrangements. Nevertheless, we advise local partners to use 2024/25 to consider and plan local arrangements carefully. Further collaboration with all stakeholders, including local authorities, will be undertaken.
- 3. Once policy options have been narrowed down for reforming the youth remand funding arrangements, we will complete a new burdens assessment and publish our full analysis, a full Impact Assessment and an Equalities Assessment.

### **Consultation principles**

The principles that Government departments and other public bodies should adopt for engaging stakeholders when developing policy and legislation are set out in the Cabinet Office Consultation Principles 2018:

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\_ data/file/691383/Consultation\_Principles\_\_1\_.pdf

### **Annex A – List of respondents**

- Association of Police and Crime Commissioners
- Together for Children
- Stockton Youth Justice Team
- Hillingdon Youth Justice Service
- Knowsley Youth Offending Service
- Essex County Council
- Magistrates' Association
- Bradford Youth Justice Service
- Lancashire Child and Youth Justice Service
- Prison Reform Trust
- Blackburn and Darwen Youth Justice Service
- Hertfordshire County Council
- Transform Justice
- Office of the PCC for South Yorkshire
- NHS England
- Thurrock Youth Offending Team
- Hammersmith and Fulham Youth Justice Service
- Derby City Council
- Buckinghamshire Youth Offending Service
- The Office of the Police and Crime Commissioner for Warwickshire
- YOT Managers Cymru

- Gwyneed & Ynys Mon Youth Justice
- North Yorkshire Youth Justice Service
- Camden Youth Justice Service
- Calderdale Youth Justice Service
- Gateshead Youth Justice Service
- Kent County Council
- London Borough of Southwark
- Manchester City Council
- Gloucestershire County Council
- Wirral Youth Justice Service
- Coventry City Council
- Hampshire County Council
- Wakefield Council
- Lambeth Youth Justice
- Blaenau Gwent & Caerphilly Youth Offending Service
- Action for Race Equality
- Positive Steps & Oldham Council
- Individual (x1)
- Cheshire Youth Justice Service
- The Association of Youth Offending Team Managers (AYM)
- Alliance for Youth Justice (AYJ)
- The Local Government Association (LGA)
- The Association of Directors of Children's Services Ltd (ADCS)
- The Youth Justice Board (YJB)

• The London Mayor's Office for Policing and Crime (MOPAC)

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