

## Sentencing: Alternatives to custody

<p><b>Context</b></p> <ul style="list-style-type: none"> <li>• Decrease in remand episodes in 2007/08 – down 33.2% from 2004/05<sup>1</sup></li> <li>• The Youth Justice Board has found significant differences in sentencing patterns around England and Wales<sup>1</sup></li> <li>• Alternatives to custody programmes include schemes such as Intensive Surveillance and Supervision and diversionary schemes.</li> <li>• The United Nations Committee on the Rights of the Child (2002) reported that:</li> </ul> <p><i>‘The committee is deeply concerned at the high increasing numbers of children in custody, at earlier ages for lesser offences, and for longer custodial sentences’<sup>2</sup></i></p> <p>It welcomed multi agency initiatives for young people involved in the criminal justice system:</p> <p><i>‘The committee welcomes the State party’s initiatives to introduce restorative justice and other constructive community-based disposals for juvenile offenders’<sup>2</sup></i></p>	<p><b>The rights of young people at sentencing</b></p> <p><b>UN Convention on the Rights of the Child</b></p> <p><i>‘The arrest, detention or imprisonment of a child shall be in conformity with the law and <b>shall be used only as a measure of last resort</b> and for the shortest appropriate period of time’<sup>3</sup></i></p> <p><i>‘A <b>variety of dispositions</b>, such as care, guidance and supervision orders; counselling; probation; foster care; education and vocational training programmes and other alternatives to institutional care <b>shall be available to ensure that children are dealt with in a manner appropriate to their well being and proportionate both to their circumstances and offence’<sup>4</sup></b></i></p> <p><b>United Nations Standard Minimum Rules for the Administration of Juvenile Justice (The Beijing Rules)</b></p> <p><i>‘<b>Any diversion</b> involving referral to appropriate community or other services <b>shall require the consent of the juvenile, or his or her parents’<sup>5</sup></b></i></p>
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### North Hampshire Custody Panel for Children and Young People

Since April 2007 Wessex Youth Offending Team (YOT) has been participating in Children in Trouble, a partnership project between the Local Government Association and the

<sup>1</sup> Youth Justice Board, 2009

<sup>2</sup> Committee on the Rights of the Child, Thirty-first session, Consideration of reports submitted by states parties under article 44 of the Convention. Concluding Observations: United Kingdom of Great Britain and Northern Ireland. CRC/C/15Add.188. 56

<sup>3</sup> The UN Convention on the Rights of the Child (1989), Article 37b

<sup>4</sup> The UN Convention on the Rights of the Child (1989), Article 40.4

<sup>5</sup> UN Standard Minimum Rules for the Administration of Juvenile Justice (The Beijing Rules). (1985). 11.3

*Howard League for Penal Reform that seeks to reduce the use of custody for children. There are three pilots across the country, one of which is based in the North Hampshire area of Wessex. The North Hampshire Pilot seeks to extend the use of intensive fostering for children at risk of custody.*

*With the aim of taking a holistic approach to the problem the project's steering group decided to initiate a children's custody panel in North Hampshire. The function of this panel would be to review the case of every child sentenced to custody, and to see if there were further actions that might have been taken or services that might have been provided, that might have prevented the young person going into custody.*

*It was intended that information considered by the panel would be aggregated to give an overview of children going into custody, and service improvements that might be made to reduce this number. It was intended that the panel should report to a higher-level strategic body that would be in a position to generate and implement a wider custody reduction strategy across Wessex.*

*A key principle underlying the work of the panel is that custody for children, and its prevention, is the proper concern of a much wider range of agencies than the YOT.*

### **How the panel works**

The custody panel first meets on a monthly basis. The panel considers all sentenced custodial cases and submitted each case to an analysis of factors leading to custody, and problems or gaps in services that might have prevented custody e.g. lack of suitable accommodation or lack of diagnosis of mental health problems.

The main method of analysis has been a study of pre-sentence reports (PSRs) for each of the cases. A particular strength of the panel has been its ability to access (through the attendance of a skilled trainer/consultant) expert advice on the quality of PSRs. Significant discussions have taken place about how to improve PSR writing, as well as the service provision underlying the case.

Any difficulties in relation to particular cases that need to be taken to a higher level of management, or to a colleague in a different agency, have been followed up – normally by a YOT manager.

A system for analysing the number and type of cases being considered by the panel has been developed using a simple spreadsheet. The numbers on a month by month basis are put together to facilitate an analysis of trends.

It is envisaged that similar reports could be prepared for each area of Wessex, and that these could be aggregated to give the picture for the whole of Wessex.

### **Membership of the North Hampshire panel**

- The North Hampshire YOT manager (Chair)
- The north-east and north-west Operational YOT managers
- YOT practitioners (on a rolling cycle)
- Bail support manager
- ISSP manager

- Action for Children intensive fostering manager
- Representative from the courts if safeguards can be put in place
- Representative from Children's Services

### **Information Requirements for the each case**

- The PSR
- ISSP report
- Offence and sentencing history (if not included in the PSR)
- Any other relevant reports (psychiatric, psychological, educational etc)

In addition the case information will be summarised on a spreadsheet. These documents will be circulated to all members of the panel, at least 3 working days before the meeting.

### **Outcomes**

- Figures for 2008, during which the custody panel was fully operational, show a reduction in overall custody from 127 to 110.<sup>6</sup>
- The figure for children sentenced to custody has seen a significant reduction of 42%, with a fall from 78 in 2007 to 45 in 2008.<sup>7</sup>
- It is hoped that by expanding its work to cover children on remand as well, the custody panel will see a similar drop in those remanded to custody.
- Closer work with housing agencies has also resulted from the panel.
- The work of the panel has also led to a raising of the standard of PSR writing in North Hampshire YOT.
- It has been identified that more work needs to be undertaken in relation to the involvement of schools and colleges who may also be able to make a contribution to this project in the long term.

### **How is the work an example of rights based or participative practice?**

- Each young person's case is examined on an individual basis;
- Every effort is made to find alternatives to custody;
- The panel's work has a holistic outcome by addressing potentials and problems with linked services, e.g. mental health services, fostering placements;
- The objectives of Children's Services and the YOT have become closer aligned, both at the operational level for the individual children and also at a strategic level.

### **Other guidance**

The Youth Justice Board has produced guidance to describe good practice for reviewing cases with the aim of reducing the use of custodial remands and sentences.<sup>8</sup>

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<sup>6</sup> Jon Fayle, The Howard League for Penal Reform, 2009

<sup>7</sup> Jon Fayle, The Howard League for Penal Reform, 2009

<sup>8</sup> Youth Justice Board, 2008