



Custody panels

Impact of a pilot scheme on
juvenile sentencing rates



Local Government Association

Contents	Page
Foreword	4
Introduction	5
The work of the panel	6
Outstanding difficulties and issues	8
Conclusion	9
Appendix: Terms of Reference	10

Foreword

In 2008, the Howard League for Penal Reform launched the Growing up Shut up campaign, to improve the care of children in the penal system. We do not believe that prison is safe for children or effective in cutting crime. 28 children have taken their own lives in prisons and self-injury is rife. Children are subject to physical restraint, forcible strip-searching and long periods of solitary confinement. Assaults and violence are daily occurrences. 76% of children reoffend within one year of release.

Article 37 of the United Nations Convention on the Rights of the Child states that custody for children should be used “only as a measure of last resort and for the shortest appropriate time”. In England and Wales, this manifestly is not the case and we jail more children than any other country in Western Europe. The Howard League for Penal Reform wants to encourage the use of child centred ways of engaging with the whole child that can tackle the underlying causes of their behaviour.

As part of our campaign we have suggested that every local authority sets up a Children’s Panel that would intervene when a child starts to come to the attention of the police or the Youth Offending Team. Currently there is a division between children who are seen as needing protection who come under the auspices of Children’s Services and those who commit crimes who come within the ambit of the Youth Offending Team. We argue that children who are caught committing crimes are likely to be children in need and that Children’s Services should engage with them and with their families to provide support. This is the only way that enduring solutions can be found.

In addition, the panel could review select cases where children went into custody, looking at what could have been done to avoid this outcome. A representative from the courts, such as a magistrate, could sit on the panel at these reviews to be given feedback on the outcome of custodial sentences for the children involved. The panel could then inform and improve practice, while collating information about the use of youth custody and preparing reports for interested bodies such as the local crime and disorder reduction partnership.

Our proposal for Children’s Panels took direct inspiration from the work being done in Wessex described in this briefing paper, as part of the joint Howard League/Local Government Association project, Children in Trouble. The North Hampshire custody panel has had a striking impact on the numbers of children being sentenced to custody and is now turning its mind to children on remand.

From small seeds, great things grow. It is our hope that similar panels are introduced throughout the country and that what has happened in North Hampshire is only the beginning.

I would like to thank Jon Fayle, consultant on Children in Trouble and formerly head of policy for the Juvenile Secure Estate at the Youth Justice Board, for introducing the concept of the custody panel to North Hampshire, and for writing this briefing paper.

Frances Crook
Director, The Howard League for Penal Reform

Introduction

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 Howard League for Penal Reform that seeks to reduce the use of custody for children. There are three pilots in different parts of 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.

The project steering group recognised that worthwhile though this project is, it is unlikely to have a widespread, 'across the board' impact on custody without other measures to take a more holistic approach to the problem.

As one way of doing this, 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 to custody, the kind of difficulties that led to their going to 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 (although of course that team has a critical role to play).

The terms of reference of the panel are attached in the Appendix.

The work of the panel

The custody panel first met in September 2007 and has met on a monthly basis since then. The panel has considered all sentenced custodial cases and submitted each case to an analysis of factors leading to custody, and problems or gaps in service that might have prevented custody.

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 the 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 in Wessex, and that these could be aggregated to give the picture for the whole of Wessex.

Figures collated by the custody panel for 2007 are gathered in Table 1 and portray the overall pattern of youth custody in North Hampshire in the months leading up to the panel being set up and its first few months in operation.

Table 1: Basingstoke custody data: breakdown by gender, legal status and month in 2007

		Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Total
Boys														
	Sentenced	4	5	6	2	4	10	4	3	10	6	8	3	65
	Remand	4	1	6	4	4	2	9	8	3	5	1	0	47
	Total	8	6	12	6	8	12	13	11	13	11	9	3	112
Girls														
	Sentenced	0	1	2	0	1	2	0	0	1	1	4	1	13
	Remand	0	0	0	0	0	0	0	0	0	0	1	1	2
	Total	0	1	2	0	1	2	0	0	1	1	5	2	15
Total														
	Sentenced	4	6	8	2	5	12	4	3	11	7	12	4	78
	Remand	4	1	6	4	4	2	9	8	3	5	2	1	49
	Custody	8	7	14	6	9	14	13	11	14	12	14	5	127

Figures for 2008, during which the custody panel was fully operational, are collated in Table 2. The figures show a reduction in overall custody from 127 to 110. The figure for children sentenced to custody, in particular, has seen a spectacular reduction of 42%, with a fall from 78 in 2007 to 45 in 2008. 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.

Table 2: Basingstoke custody data: breakdown by gender, legal status and month in 2008

		Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Total
Boys														
	Sentenced	1	3	4	5	3	2	5	4	3	5	2	3	40
	Remand	6	4	0	9	3	2	6	4	4	5	6	10	55
	Total	7	7	4	14	6	4	11	8	7	10	8	13	95
Girls														
	Sentenced	0	1	1	0	0	0	0	1	0	2	0	0	5
	Remand	1	1	0	0	0	0	0	3	2	2	0	1	10
	Total	1	2	1	0	0	0	0	4	2	4	0	1	15
Total														
	Sentenced	1	4	5	5	2	2	5	5	3	7	2	3	45
	Remand	7	5	0	9	2	2	6	7	6	7	6	11	65
	Custody	8	9	5	4	4	4	11	12	9	14	7	14	110

Overall then, the panel has seen a dramatic reduction of 42% in the numbers of sentenced children going into custody, during its first full year of operation and when this specific group of children was the object of its focus. The panel is now seeking to make similar inroads on those children remanded to custody.

Outstanding difficulties and issues

Membership of the Panel

It was recognised from the beginning that representation of Children's Services was essential since the support and services they are able to provide to children and their families have a critical influence on the likelihood of custody. Children's Services joined the panel in May 2008 and have been able to send a representative to all subsequent meetings which has greatly strengthened the work of the panel.

Consideration was also given to the possibility that a representative from the courts would be able to attend the panel. There are clearly legitimate difficulties about this proposal. For example, if the representative were a youth court magistrate, they might find themselves considering the case of a child they have sentenced or may sentence in the future. There is clearly a worry that participation in such a process might prejudice judicial independence. It is to be hoped that given some thought, ways could be found which would overcome these difficulties. For example, the cases might be anonymised for the presentation to the panel, or the clerk of the court may be the chosen representative.

More work also 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.

Alignment of objectives between different departments and sections

In some cases it appeared on the face of it that the objectives of Children's Services and the YOT were not aligned in relation to particular children. One service might believe that custody was unavoidable, while the other might believe that this was not the case. A benefit of the work the panel has been to ensure closer alignment of objectives, both at the operational level for the individual children and also at a strategic level.

Accommodation

It appeared on some occasions that custodial disposals were made (particularly custodial remands) because of, or partly because of, the lack of suitable accommodation for the young person. This is a particular issue for 17 year olds as Wessex already has a good remand fostering scheme for young people below that age. The work of the panel has allowed the YOT and Children's Services Department to use remand fostering schemes more creatively, extending the criteria on some occasions. Closer work with housing agencies has also resulted from the panel.

Mental health

It appeared in some cases that young people with serious mental health problems were sent to custody when a mental health institution was clearly more appropriate. Of course, this is a common problem across the country, arising from the acute lack of secure mental health provision for children. There are also complex difficulties around the lack of access to suitable diagnosis at an early enough stage.

Strategic linkage

From the outset it was believed that linkage of the panel to a higher strategic body was essential. After due consideration to which body would be most suitable (the main candidates were the local Criminal Justice Board or the multi agency YOT steering group) it was decided the YOT group was the more suitable and lessons from the panel are now being considered there.

Conclusion

A custody panel has been established in North Hampshire, which has analysed all cases of children sentenced to custody and aggregated the information into an annual report.

The panel has been greatly valued by all participants, and is seen as making a valuable contribution to the management of custody and the development of services for vulnerable children in North Hampshire.

The custody panel has seen a dramatic decrease of 42% of children sentenced to custody, from 78 children in 2007 to 45 children in 2008. Remands to custody have risen over the year, however, and the custody panel now intends to focus on all children in custody.

In addition to the impact on the sentencing of children to custody, the work of the panel has also led to a raising of the standard of PSR writing in North Hampshire YOT.

Consideration should now be given to extending the use of custody panels over the whole of Wessex.

Appendix

Terms of Reference

North Hampshire Custody Panel for Children and Young People

Purpose

The purpose of the custody panel is to review all cases where young people from North Hampshire, who are under the age of 18 are sentenced to custody. In particular, the panel will:

- Review each case to see if further action might have been taken to avoid custody and give feedback to workers involved in the case
- Use the information gained from the panel to inform and improve practice of all agencies and to develop and improve strategies to reduce the use of custody
- Aggregate information about the use of custody in North Hampshire and prepare reports for the YOT Steering Group, the local Criminal Justice Partnership the Youth Panel, and others.

The panel may also review cases where custody might have been expected, but was avoided, to look at lessons that might be gained from those circumstances.

Membership

The regular membership of the panel will be :

- 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

Meetings

The panel will meet on a monthly basis at Culver Rd YOT Office, Basingstoke.

Accountability

The panel will be accountable to a strategic partnership body and will report to that partnership on a regular basis.

Information Requirements

The following information about each case will be available to the panel:

- The PSR
- ISSP report
- Offence and sentencing history (if not included in 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 members of the panel, at least 3 working days before the meeting.

October 2007

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Registered charity number 251926

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ISBN 978-1-9-905994-14-4

2009