



By email: remandreview@justice.gov.uk

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AYM's response to the MoJ's remand funding consultation

The AYM is a professional association representing the majority of youth offending teams (YOT's) and their managers in England. It is a not-for-profit limited company.

Section 39 (1) of the Crime and Disorder Act 1998 requires the co-operation of the named statutory partners to form a YOT. Section 38 (1, 2) identifies the statutory partners and places upon them a duty to co-operate in order to secure youth justice services appropriate to their area. These statutory partners are the local authority, police, the probation service, and health. To support the YOT, additional partners may also be recruited to the joint strategic effort to prevent offending by children and young people.

Around 90% of youth justice partnerships in England support their YOT Managers' membership of AYM, and we have a strong executive board with a network of regional representatives. The Association is able to draw on the wealth of knowledge and the breadth of members' experience to promote public understanding of youth crime issues and to play its part in shaping the youth crime agenda.

Our members run services providing community-based supervision for children and young people who offend. We also work closely with staff in secure units and young offender institutions to ensure that young people in custody have as smooth a transition as possible back into the community. [AYM – The Association of Youth Offending Team Managers](#)

Consultation has taken place via regional representation from across Youth Justice Services in England through the AYM Executive. Members welcome the review, which they feel is overdue, but recognise the complexity of the remand 'question' and the original ambition of Legal Aid, Sentencing & Punishment of Offenders Act 2012 (LASPO) to incentivise local authorities to reduce the remand cost and find community alternatives; however it is clear that this ambition has not worked as it was hoped and therefore other factors, including changing demographics, profile of children remanded, increasing complexity, demands on the judiciary and the legal profession, court delays, increased placement costs, reducing budgets and the overall 'cost' of

remand need to be considered in order to develop any meaningful comparison to the rationale and considerations that informed LASPO legislation over 10 years ago.

Fundamentally the consensus was that there is no single preference for any one option in the consultation amongst AYM members, but it was felt that some were more likely to achieve change than others. There are many partners involved in remand decisions, including the police, legal profession, the judiciary, court, and the CPS, yet it feels that local authorities bear the main financial brunt of this and are therefore expected to come up with the answers. The issues are starkly laid out in the table that MoJ published in their consultation (below), which shows the significant increase in demand and the fact that the funding criteria is still calculated against MoJ & DfE departmental budgets in isolation, rather than children being remanded to either a YOI, STC or SCH being seen as a whole; whereas LA's regard a 'remanded child as a remanded child', regardless of where they are placed.

Table 3: MoJ remand funding and local authority spend (England and Wales) on custodial remand

	Total remand funding to local authorities	Total spent by local authorities on YOI remand beds	Total spent by local authorities on STC remand beds	Total spent by local authorities on SCH remand beds	Total spent by local authorities on all custodial remand beds
2014/15	£14.7m	£10m	£10.7m	£3.8m	£24.5m
2015/16	£14.3m	£9.8m	£7.2m	£4.9m	£21.9m
2016/17	£10.8m	£8.9m	£5.4m	£3.8m	£18.1m
2017/18	£9.4m	£11.1m	£8.2m	£4.1m	£23.4m
2018/19	£11.6m	£12.2m	£8.8m	£4.8m	£25.8m
2019/20	£16.5m	£15m	£9.6m	£5.2m	£29.8m
2020/21	£22.2m	£19.3m	£6.1m	£5.7m	£31.1m
2021/22*	£21.3m	£16.3m	£5.4m	£8.4m	£30.2m
Total	£120.8m	£102.6m	£61.4m	£40.7m	£204.7m

Specific responses to the questions posed:

AYM responses to questions 1-3 (Current model):

Question 1

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

It is the view of the AYM that the current funding model often disincentivises a reduction in remand, as allocations are based on a YOI use only over a 2-year period, and the higher the use, the higher the allocation. Therefore, LA's that have developed effective community alternatives have their funding cut, and often stopped, and therefore are unable to sustain the alternatives.

Question 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?

This is difficult to answer as it depends on individual children's circumstances and the range of options and resources that are available within each authority. However, the answer to question 1 addresses the lack of sustainability. AYM have also recently responded to the Bail ISS consultations which addresses this issue in more detail: [Responses to consultations and surveys \(aym.org.uk\)](https://www.aym.org.uk/responses-to-consultations-and-surveys)

Question 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?

As detailed in the previous question, the AYM presented a comprehensive response in the Bail ISS consultation. AYM Members report that the reduction in children entering custody is a positive trajectory but note that lower numbers has led to reduced networking and collaboration between youth justice services around intensive supervision. The reduction in numbers has led to ISS being delivered as part of ongoing work, whereas previously discrete ISS teams existed with services and partnership arrangements in place to support ISS: reduced numbers mean that each package is individually designed and delivered and arranging a package at short notice, which is generally the case, can add to the costs of an ISS programme.

Some members felt that the YJB guidance allows for a tailored approach based on the needs of the child but more detailed guidance on managing bail ISS would allow youth justice services to operate in line with national arrangements, enabling the courts to appreciate that there are defined minimum standards. Most members would support the provision of best practice examples, especially if they take account of local/regional differences.

MoJ consultation options for reforming the funding:

Option 1: Make no change.

Option 2: Continue the funding but change how we pay.

2a: Design a regional model for payments.

2b: Change the formula for calculating the allocations.

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

Option 3: End the funding model and set up a central funding pot.

Local authorities to bid in for funding centrally.

Option 4: End funding to local authorities, and funding be used in alternative ways to improve youth justice related outcomes.

4a: Explore central provision of a national community accommodation model.

4b: Increase spending on improving provision within the secure estate.

AYM responses to questions 4-12 (proposed alternatives):

Question 4

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

AYM accept that the current model is not fit for purpose, detailed in the points raised previously; including the funding formula that considers YSE placements based solely on YOI's (not accounting for STC's and SCH's) based on departmental budgets, and funding allocations that penalise success based on historical usage, we feel this is reactive rather than responsive.

However, equally there are concerns that proposed 'alternatives' could be implemented in haste, without careful consideration and research into 'what works', and this has the potential to lead to unintended consequences. This MoJ consultation is likely to generate a range of opinions from professionals who understand the impact for children, their families and safety in communities, so any responses need to be given the time and consideration they deserve. This should include a reflection on the impact of LASPO, with an understanding of what has changed, what are the current challenges, and the initial findings coming out of the pilot areas.

Question 5

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

There were mixed views from members on whether a regional approach would work, although it was the proposal that generated the most interest. It was felt that this depended on the strength of the existing regional (and sub-regional) arrangements and how established the current partnerships are. It was recognised that the two current models; the London Accommodation Pathfinder and the Greater Manchester Remand pilot, are well-placed within their respective devolved administrations to work collaboratively. However, it was also recognised that both projects have received additional investment for the pilots/pathfinders, and this wouldn't be available within the current funding envelope if the model were to be upscaled nationally. AYM members are keen to see the learning and research evaluation that comes out of these pilots, which are still in the early stages, and would ask that they are tested and given the opportunity to yield results, before any consideration of roll out to other areas.

Question 6

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

As described above it is inevitable that some 'regions' lend themselves to collaboration, whilst others are less defined as a region. AYM members also expressed concerns that some of the city regions, in particular, would have high users which would impact detrimentally on LA's with less demand within their conurbation; although spikes in cases can occur in any LA and have a significant impact. Would this model ensure mitigation is in place to be able to cover these additional costs? Consideration was also given to the alignment with Regional Care Cooperatives (RCC's) but again these are small in number, currently untested and sustainable funding not guaranteed.

Question 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 LAC status into wider funding for children's services?

Whereas a review of the funding formula based on current need and demand would be welcome, AYM members are under no illusion that this is fraught with difficulty, as demonstrated by the YJB recent attempts to review the grant funding formula and the fact that this has been 'postponed' to a later date. There are always winners and losers, but fundamentally unless the allocations are increased to reflect the current demand, as demonstrated in the 'MoJ remand funding and LA spend' table included earlier, it just means reshuffling the deck with LA's still picking up the additional cost. There was a clear consensus that remand is a partnership decision-making process but LA's are disproportionately penalised for decisions taken that are often out of their control.

The consolidation option of putting funding for remands into local children's services is already happening in a number of authorities, with the remand allocation being passported to the children's services department when it comes into the local authority, as they recognise their responsibility for all the children with 'looked after' status, including those whose LAC status is attained by virtue of the remand. However, this is not a panacea for reducing remands, this is in response to the LAC status and associated leaving care arrangements that need to be put in place as a result of the remand.

The option to roll into existing budgets, particularly the Youth Justice Grant, was not an option that was supported by our members as this would exacerbate, not alleviate the disparity in the funding formula and also place additional strain on existing budgets. Remand into custody is a demand-led budget that is subject to spikes, and some LA's would struggle to subsume the additional spend, as they do now, and this would be particularly difficult for youth justice services that work across multiple LA's. There is already considerable pressure due to lack of placements and this option would only make this situation worse.

Question 8

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

Whilst on paper this would appear an attractive option it needs careful consideration, so it doesn't become a postcode lottery, or favour LA's that have both the capacity and the breadth of expertise in bid-writing and procurement. It lends itself to favouring bigger LA's, due to the level of demand, and it won't help with smaller authorities and one-off spikes. Information is available by reviewing the Youth Endowment Fund (YEF) bid system and where these awards have been successful and for whom? We also know from other consortia arrangements that the process of commissioning and procurement can be prolonged. This option is not a quick win, so it could complement core funding, not replace it. This option could foster innovation, and we would support that, but the unintended consequences for lower demand areas would need to be factored in and considered carefully.

Question 9

Do you think that a central approach could support alternatives to custody (Option 4)?

This is a difficult question to answer given the lack of information about what this 'central approach' would look like. National oversight was the arrangement in place pre-LASPO so members felt there might be some merit in revisiting the aspects of the former model that had the potential to work well, such as the remand fostering pilots and other innovations.

The other option posed in question 4 is increasing spend on provision within the YSE. Whilst our members would welcome improvements in the youth secure estate, for many reasons that are too lengthy to list here, we absolutely want the best for our

children if they are on remand or serving a custodial sentence. However, this should be taking place alongside any additional changes to remand funding, not instead of. The ambition is to reduce both the length of remand and seek viable community alternatives, so this option of improvement in the YSE is obvious but not one that will seek to answer the remand funding issue.

Question 10

Which option do you think would best meet our objectives (on p21)?

The question is, how do you keep a level of incentivisation, whilst also recognising the increasing level of demand and costs, the changing profile of the remand population and the subsequent pressure that this has put on LA budgets. It's unclear which specific objectives this question relates to as the online pages are not numbered.

Question 11

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

There is not one alternative 'proposal' at this stage but there are a few considerations that we feel need to be taken in to account before any changes are made. It would also help to understand what the current drivers for change are and the timescales for implementation. We would recommend the following:

- Undertake a data and analysis deep dive that explores the changes in the remand population since LASPO. What does the profile look like, with a particular focus on race and ethnicity and an understanding of disproportionate groups at different points in the system, and particularly for our children in the YSE.
- A recognition that the answer doesn't sit solely with LA's, and yet they are currently having to subsume the costs. Decision-making inherent within the system needs to be reviewed and this includes key partners, such as the police, legal profession, the judiciary, courts and the CPS. Consideration could be given to local or regional Scrutiny Panels, perhaps overseen by Local Criminal Justice Boards that review cases with all parties involved.
- Allow the current accommodation and remand pilots to run their course to ensure that the learning and successes (or not) can be evaluated and upscaled nationally.
- Understand that remand is multi-faceted and includes those where a community alternative is a viable option, but also grave crimes where remand is almost inevitable.
 - For **community** options, support innovation, alongside some of the points that AYM raised in the ISS Bail consultation, regarding investment

and collaboration for ISS packages, which increase confidence in court decisions and upskill staff to deliver them.

- For **remand** cases, explore what the current demographic is and how this has changed. Are remands getting longer, is there a lag in the system, what is the impact of National Referral Mechanisms (NRM) decisions, has joint enterprise had an additional adverse impact, are there more cases that involve both children and adults, and are remanded children getting younger and placing additional pressure on STC's and SCH's?
- The cost of remanding a child in YSE is significant, but the community alternatives will also be expensive, as there is a dearth of welfare beds and community foster options, so it would be open to the market and there is a lot to learn about the current state of residential care, as the quality of provision from both the voluntary and the private sector is variable.

Question 12

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

AYM members would urge that if changes were made, they are implemented with full consultation and they are subject to review. We would not want any adverse decisions that would impact on children and families, or safety within the community. Changes would need to be incremental and properly tested across a small yet varied group of pilot local authorities to ensure that provision is both sustainable and elicits positive change.