



London Borough of Hammersmith & Fulham

# Cabinet

7 NOVEMBER 2011

## CABINET MEMBER FOR CHILDREN'S SERVICES

*Councillor Helen  
Binmore*

## CUSTODY PATHFINDER PILOT - YOUTH OFFENDING SERVICE

**Wards:  
All**

Government plans to transfer costs of youth custody to local authorities, starting with a tapered transfer of costs for remanding young people in custody from 2012. This project provides means to reduce costs to the minimum, whilst ensuring public safety is not compromised.

**HAS THE  
REPORT  
CONTENT BEEN  
RISK  
ASSESSED?  
YES**

It is a central element of government strategy to reduce costs of custody seeking evidence through this two year pilot so that savings can be made without compromising public safety. **Payment by results** – this is the first Youth Justice Pilot with a potential “claw back” arrangement; i.e. Government recovering investment grant (£300,000) at the end of year 2, proportionate to the degree that targets are achieved.

**HAS A EIA  
BEEN  
COMPLETED?  
YES**

**Delivery** - A third sector partner is to be engaged to deliver the main programme over 2 years, following a competitive selection run by City of Westminster as lead authority. A four borough consortium has been established (Tri-Borough plus Ealing) to ensure sufficient scale to meet Youth Justice Board criteria. There are 3 other pilot sites – North east London (7 authorities) West Yorkshire and Birmingham.

## CONTRIBUTORS

EDCS  
EDFCG  
ADLDS

## Recommendations

1. That approval be given to participate in Custody Pathfinder at a maximum potential cost of £85,335 if the claw back procedure has to be invoked due to targets being missed.
  2. That progress from months 6 to 9 (April to June 2012) be reviewed to determine if progress is satisfactory to enter year 2 and the potential claw back phase.
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- 3. That authority be delegated to the Cabinet Member for Children's Services, in conjunction with the Executive Director of Finance and Corporate Governance and the Triborough Executive Director of Children's Services, to review progress and authorise progress to year two in September 2012 or withdrawal from the pilot at no financial cost.**
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## 1. BACKGROUND

- 1.1. In preparation for an anticipated government policy change relating to local authority responsibility for paying for young offenders in custody, a West London Consortium of Boroughs made up of Hammersmith & Fulham, Kensington & Chelsea, Westminster and Ealing have negotiated with the Youth Justice Board (YJB) to become a pathfinder area, with the aim of reducing the costs for young people in custody across the four boroughs.
- 1.2. The majority of cost of custody for young people is currently funded centrally by the Ministry of Justice (Under 15's remanded to local authority secure accommodation are funded at 1/3 by the local authority and 2/3 central government at present.) With a view to reducing the number of young people in custody the government has outlined its policy to transfer the costs of custody to Local Authorities in the future, starting with all costs for remanding young people in custody from 2014. This would remove any financial disincentive for local authorities to renege on their responsibilities to have effective supervision of young offenders in the community.
- 1.3. The two year pathfinder provides an upfront investment (£300,000) across the consortium to deliver a range of activities aimed at reducing the risk of custody and reducing risks of reoffending with an overall reduction in custody bed nights used by the consortium. As well as improving performance and sharing best practice across the four boroughs the consortium is currently proposing to commission a third sector partner to deliver these activities.
- 1.4. The West London consortium is to achieve at least an 11.8 % reduction against 2010/11 baseline. This is an equivalent of 7 less beds used for a year.

The Project consists of:

- Remand triage – engaging families to support their child in court and during a period of being on bail in the community rather than in custody
- Enhanced interventions – 1:1 tracking to engage disaffected young people to use bespoke activities designed for them in the community.
- Resettlement and accommodation – in year two to use registered social landlords to provide single units of accommodation for high risk young people to allow them to return from custody more quickly.

- Pre-sentence report improvement / court liaison – further improve the design and presentation of programmes of supervision in the community to strengthen court's confidence.
- 1.5. It has been necessary to work across 4 authorities to achieve a scale of potential saving that meets government's criteria. An investment grant is linked to the scale of the potential saving. The consortium in West London is large enough to attract £300,000 investment over 2 years. This allows adequate additional delivery in targeted areas to increase probability of achieving the required reductions in demand for custody beds and for a contract to be let to a third sector partner, further sharing risk.
  - 1.6. The grant agreement is governed by 'payment by results' criteria, in which a target reduction of custody bed nights (11.8% over two years) is set by the YJB and if this is not achieved over the course of the pathfinder, the consortium will have to repay some or all of this upfront investment. This process is known as "claw back". If the consortium does not achieve any reduction in the use of custody bed nights by the end of the pathfinder period then the full investment would have to be repaid. This is an unlikely outcome.
  - 1.7. The consortium will have the option of withdrawing from the pathfinder at the end of year one, on 30 September 2012, without incurring any claw back costs. This allows a decision on the potential risk for claw back being incurred can be based on information on the impact of the activities introduced through the pathfinder scheme.

## **2. RISK MANAGEMENT:**

- 2.1. **Financial Risk:** To share and mitigate the risk of claw back and share it appropriately between consortium members the following risk management plan is suggested. There is no risk of claw back in year one. If targets are not achieved the project can be ended with no penalty by either side.
- 2.2 To work together with consortium members and a third sector provider to achieve an 11.8% reduction in custody bed nights (2,391 bed nights) in each Local Authority by September 2013. Officers across the four local authorities believe this is an achievable target reduction. This follows an assessment based on existing trends, which demonstrate an overall reduction in custody bed nights across the four local authorities for the last five years and the opportunities identified for sharing best practice.
- 2.3 The conditions of the grant agreement recognise the risk of 'spike events', where custody numbers are distorted by a one off group of previously unknown young people. If a spike event occurs during the course of the pathfinder, which results in three or more previously

unknown young people being remanded or sentenced to custody for any length of time, these young people will not be counted as part of the pathfinder target.

- 2.4 A project board has been established to monitor progress and to measure reductions in custody bed nights, culminating in a six month review of progress across the consortium. Monitoring reports will be made available to all senior officers/members involved. If, after six months, an aggregate of less than a 4% reduction in bed nights has been achieved across the four Local Authorities involved, the consortium will withdraw from the pathfinder with no risk of claw back.
- 2.5 If a 4% reduction is achieved after six months, risk will be managed by continuing to monitor progress from month six to month eleven and agree that if the reduction in custody bed nights is between 4.1% and 6.7% at the end of month nine further analysis and sign-off from lead officers/members would be required to continue with the pathfinder project. If the risk is deemed too great the consortium will serve notice during month eleven to withdraw from the pathfinder with no risk of claw back.
- 2.6 To agree that if a 6.7% reduction or higher is achieved across the consortium by month nine, the consortium would automatically continue with the pathfinder. A 6.7% reduction at the end of month nine would mean that even if no further reductions are achieved in year two the total risk of claw back is reduced to £150,000 or approximately £37,500 per borough. There remains a greater risk attached if the number of bed nights increases in year two.
- 2.7 To establish a model for sharing the amount of claw back if a 6.7% reduction is achieved after nine months and the pathfinder continues into year two. If custody levels were to increase in year two, the maximum risk of claw back remains at £300,000, the full grant payment. The model for sharing the amount of claw back has an element of equal sharing of repayment risk to recognise the shared responsibility across the consortium, and an element based on the proportion of bed nights currently used to recognise the different degrees to which each borough impacts on the overall reduction. Additionally, the consortium would set aside an amount of funding equivalent to the difference between the maximum liability each borough would have under a purely proportional split of the repayment so that no borough is subsidising another in the event of repayment. This is outlined in detail below.
- 2.8 To share any successes equally across the consortium i.e. where a Local Authority exceeds the 11.8% target reduction in custody bed nights the benefits will be shared equally across the consortium in order to mitigate against any underachievement.

- 2.9 To incorporate payment by results criteria within the tendering process to ensure that the risk of claw back is also shared with the third sector partner, encouraging best practise and further reducing the risk of claw back for each Local Authority.
- 2.10 The project will be put on the risk register fro the Children's Services Department in September 2012 if the project progresses to year two when the risk of claw back of the investment by central government could be invoked.
- 2.11 **Risk of harm to the public:** It is not considered that a risk to the public will arise. Assessments will be made on suitability for a young offender to be remain in the community, as now and decisions made by courts. Any indication of failing to comply will result in arrest and return to court. Additional services are being used to engage young people and their families to mitigate increased risks.

### **3. COMMENTS OF THE EXECUTIVE DIRECTOR OF FINANCE AND CORPORATE GOVERNANCE**

- 3.1. Being part of the Pathfinder is a good opportunity that allows the 4 boroughs to gain funding which can then be used to put in place new processes and interventions, as well as the sharing of best practice, to help reduce custody bed nights prior to the introduction of Local Authorities becoming responsible for funding this.
- 3.2. Alongside the £300,000 investment from the Youth Justice Board, each of the four boroughs has agreed to put forward £5,000 from their remand budgets in order to boost initial funding for project management to allow the project to commence.
- 3.3 The risk to each borough has been worked out as follows:
1. The first £150,000 shared equally amongst the boroughs - £37,500 each.
  2. The remaining £150,000 shared proportionally amongst the boroughs on the basis of how many bed nights in custody each borough contributed towards the base line amount of bed nights which was for the year 2010/11. For Hammersmith & Fulham, this was 31.9% of the total.
- 3.4 Hammersmith & Fulham's maximum liability to contribute to the claw back therefore is £85,335, or 28% of the funding. It is unlikely that some reduction in bed nights will not be achieved, therefore this figure is a worst case scenario. As soon as the reduction in bed nights hits 5.9%, which it is hoped to do by the end of year 1, the risk is shared equally as the maximum claw back is then £150,000.

3.5 With a break clause at the end of year 1, the financial risk to the borough can be reduced to £0 if the Pathfinder does not look to be delivering the expected results. Therefore it is important to monitor the reduction against the base line figures, and work has already started to produce combined reports across the four boroughs that allows this monitoring.

#### **4. EQUALITY IMPLICATIONS**

4.1 25% of those in custody in Hammersmith and Fulham are white, with Black, Mixed and other ethnic groups making up 75%. 7% are female. The plans to provide enhanced services to support individual young offenders to make use of bespoke activities to reduce their risk of offending is designed in explicit recognition of the additional support needed for young offenders from minority ethnic groups.

#### **5. COMMENTS OF THE ASSISTANT DIRECTOR (LEGAL AND DEMOCRATIC SERVICES)**

5.1 There are no direct legal implications for the purposes of this report.

#### **6. COMMENTS OF THE ASSISTANT DIRECTOR PROCUREMENT**

6.1 Westminster City Council is acting as lead authority for the Custody pathfinder project and they will run a competition on behalf of the consortium to select the partner, with input from Hammersmith and Fulham and the other two authorities. Hammersmith and Fulham procurement officers will be used to advise the Head of YOS on the proposed tendering documents when they are available from Westminster.

6.2 Once the contract has been awarded by WCC, it will need formal Cabinet approval in Hammersmith and Fulham to access the contract. The contract will be entered into by the lead authority and access will be approved by the 4 borough Project Board.

#### **LOCAL GOVERNMENT ACT 2000** **LIST OF BACKGROUND PAPERS**

<b>No.</b>	<b>Description of Background Papers</b>	<b>Name/Ext of holder of file/copy</b>	<b>Department/ Location</b>
1.	Cabinet Briefing 19/9/11	Larry Wright ext 6219	YOS/Children's Services
2.	Risk Register Appendix 1	Larry Wright ext 6219	YOS/Children's Services
3.	Project Delivery Plan	Larry Wright ext 6219	YOS/Children's Services
<b>CONTACT OFFICER:</b>		<b>Larry Wright</b>	<b>EXT 6219</b>