

# Transform Justice

## Ending custodial remand of children in London

### A good practice guide for youth justice services

#### Introduction

85% of children on remand in England and Wales are from London and ethnic disproportionality of children on remand in London is extremely high. How can London local authorities drive down the use of custodial remand for children?

Many of the solutions are already in place in pockets across the city, thanks to the creativity and dedication of London's youth justice services. In a conference in September 2021 and follow-up meetings with local authorities in early 2022, Transform Justice heard about a wide range of innovative work to reduce the remand of children in London.

This document brings together these examples of good practice, including:

- scrutinising the police decision to remand through monthly review meetings with custody sergeants and default legal aid assistance for children at the police station
- building YJS-social services relationships with a dedicated remand social worker, joint supervision and training, and practice standards and operational flowcharts for social workers
- tackling disproportionality in remand with the Social Graces model, multi-agency risk and vulnerability meetings, blind audits and statements about disproportionality in court
- improving bail package development with a 'bail as default' policy, speedy information-sharing with the police, creative approaches to bail packages and remand rescue meetings
- a consistent YJS presence at court and a communication passport to help the court adjust to a child's speech and language difficulties
- a clear protocol for out of borough arrests, including the YJS officer travelling to the court (or appearing by video), and up to date rotas with YJS contact details
- a review of previous remand decisions to identify learning and practice changes
- an ambitious target of no remands

This list is by no means complete: if your YJS has implemented initiatives to reduce the use of remand, please get in touch at [policy@transformjustice.org.uk](mailto:policy@transformjustice.org.uk) as we would love to hear from you.

#### Scrutinising the police decision to remand

Tackling the overuse of court remand for children starts at the police station. When a child is arrested and charged by the police, the police must decide whether to detain them until court (police remand) or release them with or without bail. Police remand is likely to be a driver of custodial remand because the child then has to be presented in court the next working court day (or the same day) limiting how long Youth Justice Service staff have to develop a satisfactory bail package.

**A regular meeting with your area's police custody lead to scrutinise past police remand decisions for children** gives a chance to question the necessity of bail refusal and identify any practical issues

around communication or accommodation. Hackney YJS meets regularly with the custody sergeant and children's social care to review police remand decisions, and Southwark YJS has a monthly meeting with their custody sergeant to review secure accommodation requests. Bexley runs joint **training on PACE with police and children's social services** to reduce the numbers of children held in custody overnight.

The defence lawyer has a key role in scrutinising the use of police remand for children. MOPAC and the Metropolitan Police have been working closely with the Ministry of Justice to **change legal aid for children from 'opt in' to 'opt out'**. By automatically giving children access to a solicitor/legal representative in police custody, they should be in a better position going into the court remand decision-making process. The change is currently being trialled in two areas of London.

Lambeth YJS holds **legal 'coffee mornings'** between YJS practitioners and legal representatives to share best practice, concerns, and practice changes.

#### Building relationships between YJSs and social care teams

YJS staff continue to cite difficulties finding suitable accommodation for children as a barrier to children being granted bail. There was not felt to be enough suitable accommodation for certain age groups, offences, or behavioural difficulties.

The **London Accommodation Pathfinder** will provide some additional remand accommodation capacity. Tower Hamlets is also working with other nearby boroughs to find new premises for a **joint local authority remand resettlement house**. Meanwhile Lambeth is **training foster carers** to increase the number of remand foster carers available.

In a Transform Justice survey of London YJS workers conducted in September and October 2020, YJSs also described a lack of understanding among social care teams of their role, with some social care teams reluctant to source accommodation. The problems were exacerbated due to time constraints (searches often had to be done on the day children are in court), with potential carers or placement providers not always being quick to respond.

Lewisham YJS and Brent YJS both have a **dedicated remand social worker** in the borough's social services team. Lewisham credited this with contributing to a reduction in children on remand in the last year. The remand social worker stays with the child throughout the journey, from bail to sentence or from remand to local authority to sentence, and acts as a consistent driving force to make sure the child's needs are met.

Several boroughs told us how they have built better working relationships between the YJS and social services team. In Islington, the **director of social care is directly involved in all remand decisions**.

Camden has **invested in building relationships at the service manager level** with mornings away together for the looked after children's team, the MASH team and the YJS to think about improving processes around securing remand to local authority accommodation. Hammersmith and Fulham have **joint supervisions** for YJS deputy team managers and social workers, whereas Brent runs **joint training** for children's social care and the youth justice service.

Acknowledging that a child facing remand is a relatively rare occurrence, and that a response is usually required quickly by social workers who may not have been through the process before, YJSs are taking responsibility for providing social services with the tools and expertise they need to support children facing remand. Camden created **operational flowcharts for social workers** to give social workers the confidence to act quickly when those calls come across their desk. Hammersmith

and Fulham have produced **practice standards for social workers**, setting out what they need to do in a remand case.

### Tackling disproportionality in use of remand for children

Ethnic disproportionality in the use of remand for children in London is stark, particularly for Black children. In February 2021, 74% of children remanded in London were Black. For comparison, London's under-18 population is estimated to be 18% Black.

Transform Justice's survey of London YJS workers highlighted several drivers to this disproportionality including

- racial disparities in wider society, for example school exclusion rates
- ethnic disparities elsewhere in the criminal justice system, e.g. stop and search practices
- ethnic differences in plea rates and no comment police interviews due to lack of trust in justice system
- bias in the remand decision making process meaning minoritised children are seen as higher risk and more dangerous than non-minoritised children

Earlier this year the Youth Justice Board published a study suggesting that ethnic disparities in remand decision outcomes seem to be partly explained by ethnic disparities in the outcomes of YJS practitioner assessments of risk and welfare needs.

This document focuses on what YJSs and other youth justice actors can do to reduce ethnic disproportionality in use of remand for children in London.

Lewisham YJS has introduced the **Social Graces model**: a practice tool to address inequality. The term social GRRRAACCEEESSS is an acronym that describes aspects of personal and social identity which afford people different levels of power and privilege. The tool helps to illuminate power differentials, make them explicit and explore their effects.<sup>1</sup> The model provides a framework for understanding aspects of identity and how they shape practice. It asks practitioners to be aware of how their identity influences their thinking.<sup>2</sup>

Newham YJS conducted a **blind audit of court decisions** in partnership with the local magistrates. The audit reviewed remand and sentencing decisions in isolation from any demographic information about the child. The audit revealed discrepancies in decision-making between boys of different ethnicities, making the case for learning and development amongst court actors.

In Croydon, **multi-agency risk and vulnerability management meetings** provide a space for each case to be heard and risk-assessed, and every professional's views voiced. YJS officers are empowered to use this space to challenge bias where they see it.

In Haringey and Southwark, **defence lawyers include statements about ethnic disproportionality statistics in their bail application and arguments**. YJSs could ensure defence lawyers in their area are equipped with the relevant figures for this.

The probation inspectorate provides some **useful disproportionality exercises and checklists** to help individual decision-makers and organisations to enshrine best risk management practice and tackle

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<sup>1</sup><https://practice-supervisors.rip.org.uk/wp-content/uploads/2019/11/Social-GRRRAACCEEESSS-and-the-LUU-UTT-model.pdf>

<sup>2</sup><https://www.justiceinspectors.gov.uk/hmiprobation/wp-content/uploads/sites/5/2021/10/The-experience-of-black-and-mixed-heritage-boys-in-the-youth-justice-system-thematic-report-v1.0.pdf>

bias.<sup>3</sup> The Youth Justice Board has also developed a youth justice ethnic disproportionality tool for YJSs.

### Improving the bail offer

For remand to be avoided, the YJS and/or defence lawyer must prepare and submit a bail package to the court outlining how the risks presented by the child could be safely managed in the community. YJS survey respondents told us a bail package was put forward in only 17 out of 33 recent remand cases.

Camden has **introduced a policy to request bail as default (i.e. to always put together a bail package)**, unless authorised by a manager. Starting from a position of always supporting bail has kick-started a cultural change which forced YJS officers to be more creative about how to create a bail package that would satisfy the court. It also increased their use of remand to local authority as an alternative to remand to custody, and encouraged them to be more proactive in engaging with social care partners around accommodation. Several other YJSs have now followed suit in supporting bail as default.

Part of the challenge of putting together a suitable bail package is the **time constraint**. If the child is detained in police custody until court, the YJS may not learn about the child facing remand until the morning of the court appearance. To get ahead, Camden holds a **daily multi-agency risk briefing** each morning where the police provide data on overnight arrests and share intelligence about serious incidents in the borough. This brings children facing remand to the early attention of Camden YJS staff, allowing them to begin conversations with social workers and parents or carers about bail packages. When a child has been arrested in another area, the early morning briefing gives the YJS staff member time to travel to that court to provide assurance and confidence about what can be provided in the community. Islington YJS has **built strong relationships with the police** through joint working on an Integrated Gangs team. Now police officers quickly pass information about potential remands of children on to the YJS, so the YJS can start preparing a bail package straight away. The **court should also be kept up to date about necessary delays**; in Tower Hamlets, a multi-agency meeting identifies how long it would take to produce a bail package, and immediately informs the court of this. For those remands where time constraints are too much of a barrier, Tower Hamlets and Hackney hold **remand rescue meetings** a few days after the first remand decision.

The highest tier bail package ('bail ISS') stipulates the child must have 25 hours of education, training or employment in place. In Hammersmith and Fulham, the YOS faced **difficulties meeting the bail ISS criteria** for children who had been excluded from school (or subject to a 'managed move'), many of whom were Black boys. This was driving disproportionality in the borough's child remand population. To address this, rather than trying to fill the 25 hours requirement, Hammersmith have **moved away from presenting bail ISS as the 'gold standard'**, instead being creative in the use of alternative bail options that do not have the '25 hours' stipulation attached. Haringey have developed their own alternative to bail ISS, **building in family time and activities the child is already involved in** (e.g. football), which instils confidence in court while not overwhelming the child with an intense programme of activities.

Other areas have widened the range of activities available under bail ISS. Camden incorporates **online education elements into a bail ISS package** to make up some of the 25 hours required, Islington has a mentoring service available, and Tower Hamlets has the **option of a three-month**

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<sup>3</sup><https://www.justiceinspectorates.gov.uk/hmiprobation/wp-content/uploads/sites/5/2021/12/Academic-Insights-Kemshall-1.pdf>

**curfew** for very high risk children. Tower Hamlets has a **dedicated bail ISS officer** providing coverage seven days a week.

Islington holds a **multi-agency meeting to conduct risk assessments for high risk cases** – with a clinical psychologist, police, CAMs, education and third sector organisations – to ensure all options have been considered in the design of a suitable bail package.

#### Building relationships with the court

The remand decision is ultimately one for the court, but magistrates and judges are heavily reliant on information provided by the YJS to determine if any risk presented by the child can be effectively managed in the community.

Croydon YJS has a **consistent person at court on youth court day**, in order to build trust and respect with court actors. Having the same person in court each week also allowed them to obtain useful disproportionality statistics from the lead district judge – vital for better understanding the use of remand in the borough.

Croydon also developed a **communication passport** for the front of pre-sentence reports and is looking at introducing this to the remand court process. Used for children with communication difficulties, this passport sets out what a speech and language difficulty is, asks the court to take this into consideration and outlines how they should adjust what they say.

Some YJSs are raising awareness of remand issues and bail solutions directly to courts, through **training and presentations**. In Brent, the YJS presented statistics around remand use and ethnic disproportionality to magistrates, while in Islington the YJS gives training to the court on remand and bail packages available.

#### A clear protocol for dealing with out of borough offences

YJSs told us that children being arrested in other boroughs (often linked to county lines cases) causes issues because they often only heard about it at the last minute, they did not have strong relationships with the court, and some out-of-borough courts could be less inclined to grant bail to London children.

Several London boroughs have taken steps to reduce the risk of children arrested out of borough being remanded by the court. In Haringey, where out-of-borough cases are usually linked to county lines, the YJS has **built relationships with the relevant teams and courts in those areas outside London**. Islington **sends a YJS officer to the out-of-borough court** so as to better advocate for bail, whereas Havering YJS officers **appear in court by video link** to present the bail package. At Highbury Corner court, they have **established a rota with contact details for boroughs who share the court** so that the relevant YJS can be contacted quickly about a child arrested in one of the other areas.

#### Improving understanding of local remand use

A pivotal point in Camden's journey to reduce remands for children was when they conducted a **review of previous remand decisions**. For 15 remand cases, Camden YJS looked at the age and ethnicity of those children, whether or not bail packages were put forward, the length of time remanded, whether or not the children were sentenced to custody, and whether or not there were adult co-defendants. This review produced a number of learning observations which led to some of the practice changes described above.

Hammersmith and Fulham have introduced a **post-sentence review panel** to identify patterns in barriers to remand and find ways to address these. They have also reorganised their youth justice service so that there is now a **manager with distinct oversight of custody (including remand)**, which led to an increase in the use of bail after the change was introduced. Hackney also holds a **remand panel** made up of the CPS, social care and magistrates. The panel reviews past remand cases and identifies any barriers to bail that could be addressed in future.

#### Set an ambitious target

Hammersmith and Fulham have also introduced an **aim to have no remands**. Hackney has set a target of **no more black children remanded**, following three years in a row where 100% of children remanded were from a Black or minority ethnic background. Research on organisational change shows that setting an ambitious target focuses efforts, forces creativity and eliminates wiggle room, leading to better outcomes.

Do you have a good practice example to share of how you're reducing the remand of children in your borough? Contact [policy@transformjustice.org.uk](mailto:policy@transformjustice.org.uk) to tell us more.