

Devolution of the London Criminal Justice Service

Introduction

1. The overarching Memorandum of Understanding (MoU) on further devolution to London, which was agreed between Government, the Mayor and London Councils in March 2017, included a commitment to agreeing a specific Criminal Justice MoU. The intention of the Criminal Justice devolution MoU is to:-
 - Develop a shared view of the benefits and better outcomes in London that could be delivered by the devolution of criminal justice services; and
 - Identify the criminal justice services that can best be delivered locally to complement, enhance and support national reform programmes, in line with national frameworks and standards.
2. An update on progress was provided to Leaders' Committee in October 2017 and there have been regular updates to the London Crime Reduction Board (LCRB). The LCRB is chaired by the Mayor of London and includes three Leaders who are nominated by Leaders' Committee (Cllr Kober, Chair; Cllr Peck, Executive Member for Crime and Public Protection; and Cllr Cornelius, Conservative Group Lead Member for Crime and Public Protection).
3. In October 2017, Leaders' Committee delegated authority to the three London Councils Member-level representatives on the LCRB to consider and approve the final MoU once completed. The current ambition is for the working text to be agreed with officials by the end of January 2018.
4. The December 2017 LCRB meeting confirmed the broad framework which underpins the draft MoU. The overarching objectives are to initiate changes to policy, commissioning and oversight that mean London is more empowered to:
 - reduce the current levels of offending and reoffending,
 - reduce victimisation and repeat victimisation, and provide a better service to victims.
5. The priority areas for inclusion within the MoU have been agreed as:
 - Youth Justice
 - Female offending
 - Adult offender management
 - Electronic Monitoring

- Victims and Witnesses
- London Community Rehabilitation Contract

Criminal Justice Devolution

6. The MoU is designed to set out a programme for national, regional and local government to work together to improve services and create better outcomes for London. It is hoped that the MoU will be seen as the start of longer term collaboration, and a gateway to possible further devolution to improve services for Londoners.
7. The outcomes expected from the MoU, which align with the Mayor's Police and Crime Plan, include:-
 - Reduction in First Time Entrants and reoffending amongst young offenders, especially in more vulnerable cohorts;
 - Reduction in adult persistent offending and reoffending (male and female);
 - Improved compliance and supervision of offenders on licence or subject to community sentences;
 - Improved service for London's victims and witnesses throughout their journey through the criminal justice system and a reduction in repeat victimisation.
8. It is hoped that these outcomes will be achieved by identifying areas and testing where devolution could support this aim. Areas identified during discussions with the MoJ and MOPAC include:
 - MoJ, MOPAC and London Councils making a commitment to drive improvements *'to the (community led) youth offending response across London. Increasingly working across boundaries, whilst strengthening the foundation of local delivery through Youth Offending Teams. To include working between YJB [Youth Justice Board], MOPAC and London Boroughs in relation to:*
 - *Redesigning non-custodial youth justice funding arrangements.*
 - *To better align investment and to ensure it is targeted on where the need is greatest;*
 - *Trial devolution of funding, through a sub-regional pilot.'*
 - Reviewing the use of custody for under 18s in London and develop recommendations for more effective custodial solutions.
 - Explore opportunities to co-commission a Secure School for young offenders in London, subject to a suitable location being identified.

- Increased influence over the management of the London Community Rehabilitation Company (CRC), which should improve working links with London boroughs and help improve local performance – there is some potential for agreeing a bespoke London model as part of the next round contract commissioning for 2022 onwards.
- Testing more commissioning of adult offender support services in London, on behalf of and as agreed with the National Probation Service.
- Securing a new women's centre in North East London and committing to work together to develop more suitable supported accommodation for female offenders in London.
- Developing more effective alternatives to custody for London's female offenders.
- Developing a London electronic monitoring strategy to make its use more effective in the capital.
- Exploring the opportunity for devolution of victim and witness support services in courts to provide a more consistent offer to all victims and witnesses of crime in London.

9. The MoU has the potential to deliver a range of benefits to boroughs in their wider work to reduce crime and improve public safety. These include:-

- Increased accountability in relation to the management of the London community rehabilitation contracts will provide a foundation to improve working links with local authorities and help improve local performance – to help tackle concerns raised by boroughs regarding the effectiveness of partnership working with the London CRC.
- Potential to support improvements to the youth offending response across London, with scope for improved working across boundaries, whilst allowing investments to be used more effectively to support an integrated local response.

Potential opportunities include:-

- Seeking increased investment in areas where youth offending levels are highest by simplifying and better aligning commissioning and the distribution of funding – ensuring London is in a stronger position to safeguard current levels and ultimately drive up investment.
- Collaboration between groupings of boroughs to provide more consistent custody, resettlement and support services to young offenders across London and avoid duplication of services.

- An increased focus on the critical transition from the youth justice service to the adult system.
- These opportunities, combined with local Youth Offending Teams' expertise and ability to integrate with other local interventions and services, should reduce youth reoffending across local communities.
- Diverting appropriate female offenders away from the formal criminal justice process and into specialist support services has the potential to reduce reoffending and improve rehabilitation in a way that benefits local communities.
- A more joined-up, integrated, London-focussed approach to the support for victims and witnesses in London could help reduce the number of court cases that fail due to victims and witnesses declining to cooperate with authorities or withdrawing, which is a frequent problem within London.
- More effective use of electronic monitoring across London should result in better compliance with community sentences to reduce reoffending.

Areas for Consideration

10. At the December 2017 LCRB meeting, Cllr Peck argued that the proposals for youth justice reform and associated funding realignment merited a wider conversation with Leaders before the MoU was finalised. The potential outcomes relating to youth justice reform are of particular importance for London local authorities, given boroughs' front line role in the provision of youth offending services.

11. Cllr Peck requested a more detailed paper setting out what the youth justice reform proposition might entail in practice. A paper prepared by officers is attached as Appendix A.

12. The paper illustrates how the proposed commitment to collectively driving improvements to the (community led) youth offending response across London might operate in practice:

- Analysing allocation against need for non-custodial youth justice funding arrangements
- Exploring options for better aligning investment with need and identifying where regional partnerships can better support delivery
- Trialling devolution, through a sub-regional pilot

13. The paper goes on to illustrate how groupings of boroughs could be invited to take part in a sub-regional pilot to test the benefits of cross-borough working and to demonstrate the economies of scale needed for specialist interventions. A working group of Boroughs, MOPAC and YJB would oversee the process and seek to identify resources that could be pooled for better impact.

14. The paper sets out a phased approach to the pilot, as follows:

- Agree Pilot Area – It is envisaged that a working group of boroughs, London Councils, MOPAC and YJB would agree areas for sub-regional co-commissioned services and seek to identify resources that could be pooled for better impact.
- Test Co-commissioning Opportunities – Whilst these areas would need to be agreed with the boroughs involved, initial discussions suggest that local areas might benefit most from co-commissioning in the following areas:
 - Sexual Offending
 - Appropriate Adults services.
 - BAME overrepresentation –
- Understand and Analysing Funding – MOPAC, YJB and London boroughs would work together to better understand how all funding streams are currently used.
- Working with London boroughs and wider partners to explore how a different approach may be able to better delivery specific areas of work. This could potentially encompass new approaches to: Prevention, developing alternatives to custody and resettlement following a custodial sentence

15. The proposed work between YJB, MOPAC and London Boroughs to *‘redesign youth justice funding arrangements..... to better align investment and to ensure it is targeted on where the need is greatest’* could provide a platform for a fairer distribution of YJB funding in the future, recognising that patterns of demand have changed over time. However, it also raises the prospect of turbulence in the current levels of funding. Reassurance might be offered to boroughs if it was made clear that any changes to funding would not be considered or implemented until the pilot had been evaluated.

16. The proposals for governance of a devolved settlement are relatively undeveloped and rely principally on oversight from the LCRB. If it was judged that significant devolution of powers or funding was likely to take place, London boroughs would want firmer

assurances about their involvement and representation in the governance arrangements.

Conclusion

17. Officials are working towards producing a final draft MoU by the end of January, to be considered for sign-off in early February 2018. The sign-off process will require a commitment from all involved (MOPAC, MoJ, London Councils) to move forward with the MoU.
18. London government – the Mayor and the boroughs – has continued to engage in devolution negotiations with the MoJ with the aim of securing further progress towards a more devolved criminal justice service in London. The three London Councils Member-level representatives on the LCRB will have oversight as the final draft MoU nears completion, and a further update report will be submitted to Leaders' Committee on 7 February 2018.
19. London local government will also want to be prepared for further tangible opportunities to unlock devolution of powers or funding that could emerge as a result of the commitments to collaborate and work in partnership which is central to the MoU.
20. The discussion under this agenda item will provide Executive with the opportunity to:
 - Consider and comment on the progress of London government's work towards a more devolved criminal justice service for London; and
 - Provide guidance on shaping the closing stages of negotiations with Government and the Mayor's Office for Policing and Crime.

Background Papers

Appendix A: How the proposed commitment to collectively driving improvements to the (community led) youth offending response across London might operate in practice:

Financial implications for London Councils

None

Legal implications for London Councils

None

Equalities implications for London Councils

There are no direct equalities implications for London Councils as a result of this paper.

However, core elements of the propositions are targeted at improving outcomes for groups of people with protected characteristics, notably improving employment outcomes for disabled people.

Appendix A: How the proposed commitment to collectively driving improvements to the (community led) youth offending response across London might operate in practice:

Date: 18 December 2017

Introduction

- 1.1 The March budget statement included a commitment for a Memorandum of Understanding (MoU) between MoJ and London, including a joint commitment to work towards the devolution of some elements of the criminal justice system.
- 1.2 Youth offending is one of these priority elements for London. The pattern of funding for London's borough based Youth Offending Services is complex and fragmented¹. The level of resources available have reduced whilst the need and demand for youth offending services is increasing. It is arguably timely to explore innovative solutions, including collaborative working across borough boundaries.²

Background

- 2.1 Youth Offending Teams were introduced in 2000 as a result of the Crime and Disorder Act 1998. Youth offending services have significantly reduced the use of custody for young people in the past two decades; however they are likely to face further challenges over the next two decades.
- 2.2 Youth Offending Teams in London have faced significant resource pressures, with the YJB grant funding to London having been reduced by 31% since 2012. Furthermore, Local Authority core funding to YOTs is under increasing pressure.
- 2.3 The funding for YOTs comes from multiple sources (local, regional and national) each with their own reporting mechanisms. Overall the main funding source in London is the YJB grant (at £11.4m). This funding is allocated according to a historic formula based on population, deprivation and geographical size. There is arguably no longer a clear relationship to the needs of young offenders, volume of offenders or reducing reoffending outcomes. As a result, some London YOTs with the greatest need and demand such as Croydon are under resourced.
- 2.4 Despite the successes of London's youth offending teams in recent years, they are facing both entrenched and newly emerging challenges:
 - London's youth reoffending rate is stubbornly above that of England & Wales (47.4% compared to 41.8%).
 - The reoffending rate for those leaving custody is significantly higher than the overall youth reoffending rate (69.6% compared to 47.4%).

¹ Youth Offending Services are funded by three main partners – YJB (through the youth justice grant), Local Authorities and MOPAC (through the LCPF direct funding, specific programmes and MPS resources). However, other sources of funding include health, London CRC and NPS.

² Richmond and Kingston Local Authorities jointly commission a Youth Offending Service that operates across the two boroughs.

- Despite previous successes in reducing numbers First Time Entrants (FTEs) reductions have stagnated in London over the last 4 years.
 - The proportion of BAME FTEs has increased whilst the proportion of white young people has decreased - in 2006 BAME offenders made up 31% of FTE compared to 40% in 2016. This disproportionality increases as young people progress through the system.
 - The types of offences young people are entering the criminal justice system for has also changed - In 2016/17, 21% of all juvenile FTE were for possession of weapons – this compares to just 7% in 2006/07.
- 2.5 And against this back drop of complex needs and reducing investment, demand in the system has also increased with the vast majority of young offenders are now managed in London's communities by YOTs - just over 6000 compared to 251 currently in custody.

Driving Improvements to youth justice services in London

- 3.1 MOPAC, MoJ and London Councils are giving consideration to agreeing a number of commitments to collectively drive improvements to the (community led) youth offending response across London. It is currently envisaged that this would encompass:
- Analysing allocation against need for non-custodial youth justice funding arrangements
 - Exploring options for better aligning investment with need and identifying where regional partnerships can better support delivery
 - Trialling devolution, through a sub-regional pilot
- 3.2 A degree of sub-regional working could benefit local areas by delivering efficiencies and economies of scale needed for specialist interventions where boroughs don't have the resources or number of offenders to effectively commission.
- 3.3 It is proposed that the new approaches detailed above be tested through a measured and phased approach to enable the impact of changes to be fully evaluated and understood. As a first step it is proposed that a grouping of boroughs be invited to take part in the following Sub Regional Pilot.

Sub-regional Pilot - Phased Approach

Agree Pilot Area - A working group of Boroughs, London Councils, MOPAC and YJB to develop a sub-regional pilot³ and seek to identify resources that could be pooled for better impact.

- 1. Testing Co-commissioning Opportunities** - Working with the boroughs we would agree areas for sub-regional co-commissioned services. Whilst these areas would need to be agreed with the boroughs involved, initial discussions suggest that local areas might benefit most from co-commissioning in the following areas:

³ An appropriate scale for a pilot might be of the order between a quarter and two thirds of London (8 and 11)

- Sexual Offending Services – These offenders cause high harm to our communities and require specialist intentions but the numbers of offenders are low by borough making it difficult to commission the right provision locally. A sub-regional sexual offending service would provide economies of scale but more importantly ensures offenders access appropriate services, reduces reoffending and the high risk of harm to future victims.
- Appropriate Adults services – Each borough YOT has a legal duty to provide appropriate adults for young people in their geographical area. But quality of service varies. A sub-regional appropriate adult service would improve provision (where needed), provide a standard service and provide efficiency savings by commission one service instead of multiple services.
- BAME overrepresentation - BAME young people are over represented in London's youth justice system, particularly those sentenced to custody. Yet there are few targeted interventions for these young people. A sub-regional resettlement service with specialist support for BAME offenders could address this gap.

2. Understanding and Analysing Funding – MOPAC, YJB, and London boroughs would work together to better understand how all funding streams are currently used. By analysing and testing the potential impact of pooling investment, and allocating and targeting funding differently we would hope to understand the potential change across London and better plan for future devolution to London. The devolution of elements of the funding in the pilot area (from the YJB to London) is being discussed with the MoJ for potential inclusion within the MoU, alongside appropriate governance arrangements (under the umbrella of the LCRB, which would include the Mayor, MOPAC and strong borough representation).

We would also work with MoJ to understand if there are any other pots of funding that are centrally distributed that can be allocated (ie matched funding for currently funded European Social Fund programmes and any possible DfE or DWP funding)

3. Exploring structural / policy areas to support more effective delivery –Working with London boroughs and wider partners to look at how a different approach may be able to better delivery specific areas of work. As with co-commissioning this approach would be agreed in partnership, however, areas we think could be structured differently to better support this are:

- Prevention
- Sentencing – developing alternatives to custody and improving engagement with judiciary.
- Placements to prison
- Resettlement following a custodial sentence

MOPAC propose that this work stream be overseen by the Safer Children and Young People Board with a sub-group of the board set up to drive delivery. These governance mechanisms would report to DMG and LCRB as this structure and membership is already invested in this area of work.

London Crime Prevention Fund (LCPF) Co-Commissioning Fund , which brings together London partners to co-design, co-commission and co-deliver services, has demonstrated the interest for co-commissioning across London boroughs and more collaboratively with the VCS. The application process for the first tranche of funding has been a driver to initiate different and more collaborative responses to ingrained problems. This new approach to commissioning in London is still in the early stage, and there is plenty of opportunity to continue to refine and improve, but has also proved helpful to highlight particular challenges within certain policy areas.

A high number of the expressions of interest submitted to tranche 1 of the co-commissioning fund were for youth offending services, which demonstrated the demand and need, but unfortunately did not score highly against the criteria and only one passed through to Expression of Interest round. The LCPF working group will be running a review on why is the case and to identify learning to inform future proposals (and to inform this proposal) but there are clearly structural challenges, which makes collaboration both between boroughs and with VCS difficult in this area. With funding tighter than ever and demand no longer declining and starting to go up, more cross borough collaboration and integrated investment is essential.