

Supreme Court rules that Police disclosures must respect privacy rights

Section 115(7) of the Police Act 1997 provides for enhanced criminal record checks to be carried out in various specified circumstances (eg where people are applying to work with children or vulnerable adults) as to the information that is to be provided by the chief officer of a police force to the Secretary of State for inclusion in an enhanced criminal record certificate (ECRC).

The number of disclosures of information by means of ECRCs has exceeded 200,000 for each of the last two years (2007/2008: 215,640, 2008/2009: 274,877) Release of sensitive information of this kind impacts the applicant's opportunities for employment or engaging in unpaid work in the community.

The UK Supreme Court, which replaced the Law Lords on 1 October 2009, has ruled that the police must give due weight to an individual's right to respect for their private life when determining whether to disclose non-criminal related information held on record.

The judgment confirmed that an application for a job requiring an enhanced criminal records check cannot be regarded as consent to a violation of privacy rights. In considering whether to disclose information, the police must consider whether the information is reliable and relevant, and whether (in light of the public interest and the likely impact on the individual) it is proportionate to provide the information.

This ruling could well prove to have a positive impact for children who find themselves in conflict with the law, including those who may receive criminal sanctions as a result of non-compliance with the new legal duty to participate in education or training until the age of 18 and are unable to put it wholly behind them as young adults.

Bradford Partnership working

The Council has teamed up with the city's police and the YOT to create a set of guidelines to help reduce the number of offences by young people in children's homes. The Protocol aims to prevent children in care in the council's children's homes being stigmatised as criminals, by working out the causes of offending so it can be stopped. The agreement has already reduced the number of reprimands, final warnings, convictions, offending and antisocial behaviour for children in homes. Methods are outlined for handling a range of incidents, such as violence, criminal damage, theft and disorder. When an incident arises it is recommended that staff do what they can to avoid police involvement, including alternatives such as informal education or restorative justice. Michael Kelly, at Bradford Council, said: "We hope that these guidelines will help give these young people a better start in their adult lives without the stigma of a criminal record, if this can be avoided. At the same time we don't want to discourage staff from reporting incidents to the police - we just want to ensure a consistent approach."

Substance Misusers 2009

The National Treatment Agency (NTA) has released [figures](#) showing by region the number of young people receiving support for substance misuse in each area; the primary drugs and the outcome of support and treatment. The North West had the highest number of children being treated for drug dependency over the past year - 4,916. Most were male and 50% were over 16. The primary drug, as in all the English regions, was cannabis, followed by alcohol. The majority of patients in all regions completed their treatment with only a small minority dropping out or going to prison. The release coincided with the launch of a [Guardian microsite](#), aimed at promoting recovery and reintegration.

Q. What are the pros and cons of victim attendance at an initial panel as compared with a later review panel?

The law makes it very clear that the victim should attend the initial panel meeting and contribute to the agreed contract – it even states that the initial panel should be arranged around the victim. The training pack 'Panel Matters' expands this requirement with different models of good practice for initial panels and reviews.

This clearly presents significant technical challenges. A YOT has to prepare the young person for the panel process, arrange a suitable date, time and venue for Panel Members to attend, combined with the process of contacting victims, assessment of risk and ensuring they are ready to face the offender. It is hardly surprising that many victims are only offered attendance at review panels. Many YOTs also believe that it is not fair on the young person to delay commencement of the order by delaying the panel. So why is this an issue? Primarily because a shift in relationships takes place between Panel Members and the young person after an initial panel. There is no prior relationship at the initial panel, and volunteers represent the community unequivocally. Once the contract has been agreed, a relationship has been established which did not exist before – generally one of support for the young person.

When a victim attends a panel they are generally in a hyper-sensitive place; they are being taken 'back to the scene of the crime' by recounting their tale. Any imbalance in the process will be very obvious to the victim and any sense that the process is for the benefit of the young person will be keenly felt. This is classic re-victimisation - where the response of others increases the hurt felt. One way this can happen is through the language used. I frequently hear Panel Members say to young people "We are here to help you" and "We are not here to punish you, but to support you". These kind of statements may well be true but are not representative of a system supposed to be victim-led and focused, and would lead to a victim feeling 'used' by the system, instead of supported. Whilst it is relatively straightforward to get a young person to agree to a contract element: 'I will meet with my victim to apologise', there is a potential problem if, at the review meeting, the victim suggests reparation which the young person then refuses to do. Although this change might be seen as a variation, the young person could argue for compliance with the contract as initially agreed; indeed why should they agree to a subsequent amendment? The Panel has the power to return to court for refusal to agree a contract or failure to comply – not for

failure to accept or comply with a later variation. Moreover, the victim would be attending in full expectation that the Panel supports their views. This situation could not arise if victims' views are represented at the initial panel. Whilst good preparation should minimise the risk of non-compliance, why introduce the potential in the first place?

Q. Who would support the victim during and after the panel? Is it a person known to the Victim, YOT staff, Victim Support, or other party?

Experience has shown that victims are much more likely to attend if they have someone to travel with and support them during and after the panel meeting. The law allows a victim to bring a supporter to the meeting, with the agreement of the panel.

Ideally the supporter should be willing and able to support the victim and help them to fully express their views. They should also have no relationship with others in the room, attending solely to support the victim. It is helpful if they have a story to tell around their involvement in the 'incident' so that they add to the panel meeting, instead of acting as a 'hand holder'. I generally put this to the victim, as they will almost certainly have a preference. However an assessment of suitability should be carried out by the YOT - the victim's 6'4" rugby-playing son might be a little intimidating for the young person! My general rule is that if the supporter will abide by the ground rules and wants things to move on, then I normally agree to their attendance. If the victim has no-one who fits this role, or there is some other reason why someone is unsuitable, then the YOT should consider providing a supporter - the YOT victim contact worker, a Victim Support or other volunteer.

My team is training a group of volunteers to undertake this role, also to attend in place of the victim if he/she is not prepared to attend. The role requires knowledge of how panels work, so ex-Panel Members would be a good starting point. There is however a potential conflict of interest in using existing Panel Members, who would feel some responsibility for successful agreement of a contract and this bias would be unhelpful. The 'supporter' must not have another agenda in the meeting. When the meeting is over the YOT should contact the victim the following day to check on their welfare, having stirred up original responses to the offence through telling their story. However YOTs cannot support victims in the longer term and should establish local protocols for referrals to Victim Support .

Children's CRB Checks

A person can be checked by the Criminal Records Bureau (CRB) if their profession, office, employment, work or occupation is listed as an exception to the Rehabilitation of Offenders Act 1974.

[A CRB spokesman said](#): "It makes sense to check anyone over the age of criminal responsibility, which is ten years old. If an individual is under 18, they can be eligible for a CRB check if their employment involves working in regulated activity with children or vulnerable adults. The number of CRB checks for under-18s accounted for only 3.3 per cent of all CRB checks processed in 2008-09."

Three quarters of a million under 18s have had their backgrounds checked in the last seven years. More than 125,000 young people under 18 had their backgrounds checked between October 2008 and September 2009 compared with only 61,700 in 2002/2003, according to [Home Office figures](#).

The sharp increase was partly due to a change in rules that meant that young people whose parents work as childminders now have to be vetted. "CRB checks send a damaging signal to young people, who should be encouraged to take steps in caring for others less capable than themselves," said Josie Appleton, spokeswoman for the [Manifesto Club](#).

Blackburn & Darwen RJ Panel

In Summer 2009, a burglary took place at AFC Darwen football club. A group of young people stole alcohol, a karaoke machine, microphone and PA system. A 15 year boy was sentenced to a 12 month RO and £297 compensation for his part in the offence. He attended a Panel meeting convened by Blackburn with Darwen YOT to meet representatives of the football club who explained the effects. The boy apologised for his behaviour and agreed to complete a contract of interventions designed to help him to stay out of trouble and make reparation to the local community.

The club's Chairman and Secretary were interested to hear from the boy and about his motivation. The Chairman commented, "*I think meetings like this are a good idea because it encourages the offender to hopefully face up to what they have done and shows them the consequences of their actions*".

The Secretary did not feel it was appropriate for him to make direct reparations at the club, preferring it to be elsewhere. He liked the idea of community reparation however, and met the YOT reparation coordinator at a later date to find out more about how the club could benefit from becoming a reparation project host: "*We were clear that we didn't want anyone who had broken into the club to come and do reparation works here, but we have since had young offenders carrying out work at the club, such as painting duties and cleaning which we have been really pleased with.*"

The apology had a significant effect. "*It made me realise that what I did had real consequences on people's lives and I am sorry for what I did. I was worried when I knew I had to apologise face-to-face to the lady who works at the football club. I didn't know what to expect and I was scared about what she would say and think about me. It made me feel really bad knowing how much work has gone into the football club. My dad had to pay the fine so he wasn't pleased with me and has warned me to stay out of trouble.*"

7 months later at his second review, the Panel Members heard that he had not re-offended and did not hang around with the same group anymore. He had completed all the elements of his contract and passed his GCSE maths.

The Panel Members requested an application to court for revocation on the grounds of good progress. The District Judge commented: "*No hesitation in granting a Revocation, I am extremely pleased to hear such a positive outcome*" and wished the boy well.

Specific Needs in police Custody

A joint HM Inspectorate of Prisons and HM Inspectorate of Constabulary report found that the specific needs of juveniles, as well as women and those with disabilities, were not being met. While all detainees were treated politely and professionally, teenagers were too frequently treated like adults. ..(cont'd)

One of the main concerns highlighted was that young people aged 17 were not given access to an Appropriate Adult. It is only a legal requirement to provide such access to those aged 16 or under, however the report stresses that it is good practice to offer this service to all juveniles in custody. The report says: "Children and young people were subject to the same treatment and conditions as everyone else." Inspectors, who visited the constabulary's custody suites last summer, recommended the police develop a formal policy to help staff deal with young people. They also called on the constabulary to ensure that those in custody under 18-years-old should have access to an appropriate adult.

A Leicestershire Constabulary spokeswoman said: "We comply with legislation and provide appropriate adults to young people aged 16 and under who are in custody. We are not required by law to provide an appropriate adult to someone who is aged 17. However, where they are identified as vulnerable following a risk assessment process we do provide appropriate support."

'Making Good' Reparations extended to North East

[Launched last November in the North West region](#), the community reparation scheme is unpaid work overseen by YOTs. Although this type of work is far from new, the innovation is [a website allowing the public to](#)

[have a say](#), in addition to a [Blog](#). Each reparation session lasts about two hours and takes place at evenings and weekends, as young people cannot work during school hours.

Suggestions from local communities must be meaningful and beneficial to both the community and to the young people. Proposals must not take away paid work from others and not make a profit for anyone. Tasks will need to comply with a range of conditions and be subject to a thorough risk assessment. Health and Safety considerations must also be taken into account.

Examples of recent community reparation projects across the North West include making benches for local parks, clearing churchyards and public alleyways, refurbishing and restoring abandoned bikes to sell for charity, painting fences, graffiti removal, path clearing and general maintenance.

39 of the 131 suggestions received were rejected as inappropriate and demeaning, including calls for young offenders to [be publicly flogged or held in stocks](#).

The other rejected submissions were considered incomplete, impractical or high risk, including projects involving the operation of heavy machinery, according to an MOJ spokesperson.

Glasgow's Community Initiative to Reduce Violence (CIRV)

[The CIRV project](#) formally began in October'08 with the aim of reducing gang violence in Glasgow's East End during an initial two year period,

followed by rigorous and independent evaluation. After intensive engagement with gang members by police officers and community partners, five Self Referral Sessions (SRS) were held at Glasgow Sheriff Court. In total 222 gang members attended these sessions and 368 actively engaged with the project in the first year, each having given a pledge to stop their violent behaviour.

On average there has been a 49.2% reduction in the level of violent offending by gang members. By using gang members to influence fellow gang members, CIRV also aims to affect the behaviour of those who refuse to engage. There has been an average 18.5% reduction in violent offending by the disengaged group to date.

The SRS is part of the engagement process and shows the consequences of violent behaviour to gang members. The SRS informs clients about support services available to those choosing to engage, the consequences for them should they continue to be violent and communicates the expectations of the community.

A stated expectation is that attendees pass the message to fellow gang members. Every attempt is made therefore to identify attendees that most broadly represent the street gangs identified in intelligence gathering.

Five SRSs have been held during the first year. Each session followed a distinct path, with delivery of the key messages crucial to the whole event. This was achieved by using different partners to give ..(cont'd)

different messages at each session, including:

- Senior police officers
- The mother of a boy seriously injured as a result of gang violence
- An ex-prisoner convicted of murder following a gang fight
- Ex gang members who have engaged positively with the programme
- Programme providers

Each session is chaired by a Sheriff, giving the event a certain level of gravitas. On completion of the SRS every potential client is issued with a card containing a 24/7 contact telephone number and instructions for engagement.

Experience has shown that gang members:

- will attend more than one session before they agree to engage
- will engage some time after the session itself
- will engage without having ever attended (sometimes as a result of a reluctance to enter the court environment).

Statistics

[The frequency of youth re-offending](#) has fallen by nearly a quarter since 2000, and 20,448 fewer (20%) young people entered the criminal justice system in the first place.

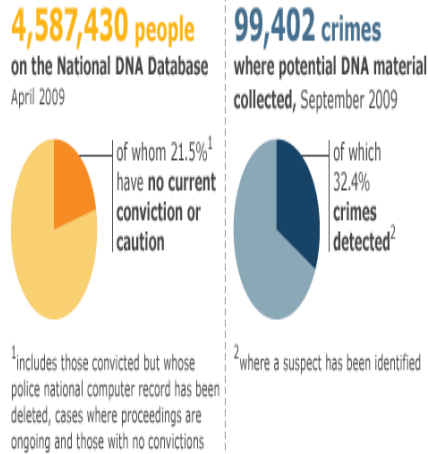
Latest statistics show that:

- The number of offenders aged 10-17 entering the CJS for the first time fell from 94,481

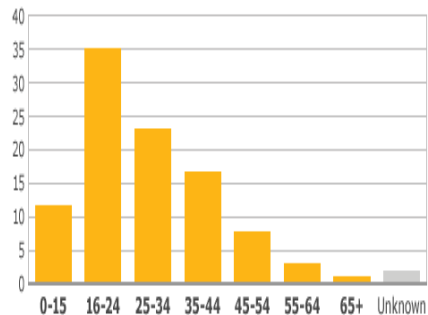
in 2007-08 to 74,033 in 2008-09, a decrease of 21.6 %

- The rate per 100,000 10-17 year olds across the country fell from 1,857 in 2007-08 to 1,472 in 2008-09, a 20.7 % decrease.

DNA Database



% breakdown by age³ of subject profiles on DNA database
March 2009



³age when first registered on database

Source: Home Office/Parliamentary questions

Post Code Jail Sentencing

There were 2,556 under-18s in custody in September 2009, compared with 2,934 in September 2008 - a fall of 12.9 per cent. The YJB has been working with local authorities in an attempt to reduce custody levels.

Unpublished YJB figures obtained by [CYP Now](#) reveal

that around one in every 200 children in Manchester and the London Boroughs of Lambeth and Southwark end up in custody each year.

In sharp contrast, just one in 5,000 children in Dorset or Surrey experience the same fate. In total, 6,719 children were sentenced to custody out of 109,062 convictions between April 2008 and March 2009 across England and Wales. This works out as a custody rate of 6.2 per cent, an increase on the 2007/08 rate of 5.7 per cent.

When combined with latest population figures, 36 areas including Birmingham, Bristol, Liverpool and Nottingham had at least one in 500 children sent to custody in 2008/09. Children living in deprived inner-city areas can be 25 times more likely to end up in custody than those in more rural or suburban settings.

The average cost *per year* of a place at a Secure Training Centre (STC) for 2008-09, was **£180,000**. The age range of young people held in STCs is 12-17 years. Budgeted YJB costs per place in a Young Offenders Institute (YOI) are £72,000 and £212,000 per place in Local Authority Secure Children's Homes (SCH)

Custodial Places

YOI	STC	SCH	Total
2951	301	218	3470

According to research by the YJB, educationally, half the YOI population is functioning below the level of the average 11-year-old on entry to the institution.

More than a third of those of compulsory school age have a reading age of seven or less; and more than two-thirds are functioning below the level of an average 11-year-old.

Approximately half were functioning at or below the numeracy level of an average seven year old.

Community vs Jail Sentences

The *Daily Mail* claims that offenders whose punishments involve activities such as building nesting boxes simply return to crime, citing the number of new offences by juveniles who received 'soft' punishments instead of custody for crimes including mugging, theft and vandalism. Between 2002 and 2007, teenagers were convicted of 667,073 new crimes. Teenagers given Referral Orders committed a further 160,000 crimes.

Since the figures relate only to crimes committed within 12 months of the court order being made, this *obviously* (?) means that many crimes could have been prevented if the young person had been taken into custody instead.

Justice Minister Maria Eagle MP said; 'Sentences for individual offenders are, rightly, a matter for the independent judiciary. Only they have the full details of each case.'

Conditional Cautions (YCC)

[YCCs](#) aim to reduce the number of young people being taken to court for low-level offences, and may be given if the individual has no previous convictions, admits guilt and consents to the caution. The official pilot commenced in January 2010 for at least 12 months in the following five areas:

- Cambridgeshire
- Hampshire
- Humberside
- Merseyside
- Norfolk

The YCC will be used in similar circumstances for offences currently dealt with by a Referral Order and becomes spent after three months. YCCs cannot be administered for hate crimes, offences involving domestic violence and offences using knives and/or offensive weapons.

YCCs will initially be implemented for 16 and 17-year-olds and provide an additional out-of-court option where the offence is not suitable to be dealt with by way of [Reprimand](#) or [Final Warning](#), or where the young person has already used up the options available to him/her under these schemes. Such cases are currently referred to court. The decision to administer a YCC has the effect of suspending any criminal proceedings while the young person is given an opportunity to comply with the agreed conditions.

The YCC allows the Crown Prosecution Service to offer a caution with conditions attached. Prosecutors must decide if the YCC is in the public interest. The decision as to appropriateness and the conditions to be offered, is for the prosecutor alone, based on one more of the following objectives:

- rehabilitation – conditions that help to change the behaviour of the offender, reduce the likelihood of them reoffending or help to reintegrate the offender into society
- reparation – conditions that aim to repair the damage done either directly or indirectly by the offender
- punishment – conditions that penalise the offender in an effort to deter future offending.

Non-compliance is not a criminal offence, will be investigated by the police and, where appropriate, the young person prosecuted for the original offence. No more than two YCCs may be issued.

The reality behind the knife crime 'debate'

[A report by the Institute of Race Relations](#) examines knife crime to provide a factual response to the 'moral panic' created by the media. The evidence suggests that, whilst some marginalised young people are carrying knives, the image of violently nihilist, feral, often Black or ethnic minority teen gangs armed with knives and guns is, at best, only a snapshot of the grim reality for a very small minority. At worst, this kind of imagery, replicated unchallenged and unqualified on our screens and from the dispatch box, leads to a punitive and misguided political climate which may ultimately fail the very teenagers it aims to reach. The report claims that the media relies on snapshots of young people carrying knives, which are based on a very small minority.

Teenage girls driven to violence by feuds, drink and jealousy...

In the debate about the growth of violence among young women, T and J two 17-year-olds discuss the aggression and bullying that is part of their lives. They are adamant that there is no such phenomenon as girl gangs, just groups of mates who look out for each other. "If someone's been talking about you behind your back and saying things that aren't true, or if she's been making threats, then you can *front her up*, and if it gets mean, then you might end up giving her a slap. You can't just go around being bullied," explains T. "But that's not violence, that's self-defence. If you are a bully, then you deserve whatever you get. Violence is stabbing and a proper beating. I don't hang out with girls that carry knives."

Bullying, both say, is about jealousy. Neither will admit to ever carrying knives. J says it is too risky because police now target young women. "They didn't used to stop girls, but it's different now. Now everyone thinks you're in a girl gang when you're just out, even when you're not fighting or doing anything. I don't even like fights, but you can't walk away if a mate needs you."

In March, egged on by her friends who claimed her stepbrother had been spreading malicious rumours about her, T

attacked him with a hunting knife. The bottle of vodka she had drunk beforehand made sure she didn't inflict any serious damage - unlike an incident when she was 15 and broke another girl's nose. "I didn't start that fight, she was bullying me and thought she could turn all my mates against me. She deserved that."

In London on Friday night they are off to go drinking at a friend's house. T says; "I blame my mum sometimes, because I think I've got no chances because of her, but it's not really her fault. I've just got a temper on me." The girls' attitude to violence is not unusual, according to a UK-wide survey by the women's rights group Engender of 14- to 21-year-olds, which found that one in three girls and one in two boys thought there were circumstances in which it could be acceptable to hit a woman or force her to have sex.

As part of Anti-Bullying Week, the website Bebo, mostly used by teenagers and pre-teens, added a new button allowing users to click and report if they suspect anyone of bullying. The CEOP button (Child Exploitation and Online Protection Centre) gives the user the option of contacting specially trained officers via an online reporting mechanism. Jim Gamble, chief executive, said it was a "one-click" access to safety advice and directions to local police phone numbers.

Paul McKeever, chairman of the Police Federation in England and Wales, believes the police have lost so much discretion in how they deal with girls offending that more and more young women are now ending up going through the

CJS. He said that teachers and parents no longer felt able to deal with discipline and bullying, and that the police were becoming more involved in disputes between young people in a way that would have been previously unthinkable. "We are a much more aggressive society now, and combined with the access young girls have to alcohol, plus police having to behave in a more automated manner, we are seeing far more young women exhibiting obnoxious drunk behaviour which feeds low-level violence. Violent young women are not a figment of the police imagination. The vast majority of violent crime is still committed by young men, but there is undoubtedly a rising phenomenon here. But let's also keep things in perspective. Violent crime is committed by a tiny minority of youngsters and most children are great. Let's not demonise young people. We don't need to be afraid of them."

The trend towards violence by girls is not just happening in Britain. Other western European nations report upward trends in female crime, while research findings reveal that over the past 10 years the rate for violent offences involving adolescent girls in Canada has increased at twice the rate for boys. In America violence by young women has been rising steeply for 15 years. US psychologist Richard Felson was amongst the first to look at the trend, and claims it challenges the deeply held assumption that violence against women is different from violence against men because it is promoted by sexism or hatred of women. Felson says the motives for violence are the same for all genders ..(cont'd)

– to gain control or retribution and to promote or defend self-image. But women are still far more likely to be victims than perpetrators of gun crime in the USA, although by August 2009, more girls had been caught carrying guns than in the whole of the previous year in the UK,.

In Scotland where the Lord Advocate, Elish Angiolini, last year told the Scottish parliament of an increase in "appalling acts of murderous torture" by women against women and in the number of young girls using knives, officials are linking the rise to binge-drinking and an increase in 'ladette' behaviour. "This can be gang-related or it can just be that there is someone in a group who is quite persecuted by the gang leader or their cohorts," said Angiolini. "That is the kind of machismo behaviour that hitherto we would only see from a male offender." She put the blame firmly on the rise in consumption of alcohol.

Researchers and psychologists point out that the picture is more complex. Dr Susan Batchelor of Glasgow University points out that, while the figures for serious assault by girls rose by 138% in Scotland in the 10 years from 1997, violence was involved in only 2% of all the offences committed by young women. Batchelor questions whether more girls getting arrested or charged over violence, is really the dark side to girl power or whether, in fact, an invisible minority is being held up for use as a scary example of social change for the worse.

Dr Val Besag, international educational psychologist at the anti-bullying charity Kidscape, said both alcohol and shifting aspirations were key to the rise in female violence. "Girls traditionally were heavily socialised to be nice to each other and to be ladylike. We would say to girls who fall out 'go away and be friends'. You say to a boy 'fight back' or 'keep away from them'. We used to socialise girls to stay in horrendous marriages, to work harder."

"But actually, despite all the cultural and emotional pressure, evolutionary science tells us girls are just as violent as men but they are much, much slower. It takes much more, for much longer, for us to get aroused to anger – we procrastinate. But if you throw in drink and drugs, then you shortcut that. And you can't expect to say to young women: *'Here, we've lifted the glass ceiling. Go out to work, but just have a small sherry whilst your male colleagues are knocking themselves senseless with drugs and drink.'* And, of course, women's bodies can't process alcohol terribly well. All these horrendous cases we are seeing of girls killing or bullying other girls, will have drink or drugs involved. You only have to come across a crowd of drunken girls on a dark night in Newcastle to see the potential for violence."

How locking up children is making Britain less safe

[A report by the New Economics Foundation \(nef\)](#) claims that incarcerating children for non-violent offences is costing the taxpayer millions, and fails to reduce the amount of crime.

The report calls into question the plans of both Labour and Conservative politicians to invest in new prisons when research reveals :

- 82% of 12-14 year-olds in custody had never committed a violent offence
- Costing about £100,000 a year, sending a child to prison now costs much more than a place at Eton and the harmful consequences of imprisonment result in at least £40,000 of further indirect costs to the state. These include continuing crime and higher unemployment after release.
- Time spent in prison makes it more likely for children to be unemployed in the future, to have lower income, be disconnected from education and have unstable living conditions – all factors making it more likely for them to continue offending after they have been released.

Overall Local Authorities can reduce the use of imprisonment by 13% without need for legislative change or a large increase in public spending.

Policies include better co-operation between local agencies and courts, and using restorative justice interventions that allow offenders to repair the damage they have caused in the community. These changes can result in over £60 million of savings in England, and over £2million for some local authority areas.