

DRIVING CRIMINAL JUSTICE DEVOLUTION

LESSONS FOR PCCs AND MAYORS



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FOREWORD

Look across the criminal justice system today and it is clear that the red warning lights are flashing. From growing waiting times in our courts, the violence and sense of despair in our prisons, through to the failure to rehabilitate offenders once through the prison gate - there is a sense that services are on the point of collapse.

Talk to the people involved on the front line and they will tell you what the problems are: priorities handed down from Whitehall that make little sense; caseloads that are too high to be able to build meaningful relationships; commissioning structures that reflect institutional silos, rather than the complex reality of people's lives. All of this is of course against the backdrop of changing crime patterns and shrinking budgets.

In days gone by, we might have looked to the government for inspiration. Yet with the Ministry of Justice having swapped five Secretaries of State in three years and the government machine consumed by Brexit, there is a sense of drift within justice policy. Ministers and officials are doing their best but feel powerless, seemingly hard-wired into a cycle of failure.

Instead, it is locally elected Police and Crime Commissioners (PCCs) that are providing the inspiration and energy to make change possible. Their democratic mandate has given them real soft power to convene many of the most important local agencies to address shared problems. It has also encouraged many to start challenging the performance of not only the police, but also the wider justice system.

That is the starting point of Crest's new report, which focuses on how to make justice devolution work in practice. There are two core arguments for devolution. Firstly, PCCs are accountable for police performance, but the crime in their communities - not to mention the social harms - cannot be solved by the police alone. To make real progress, PCCs have to make good on the 'and Crime' part of their job description, which means greater leverage over youth justice, prosecution, courts, probation and prisons.

Secondly, the big fiscal reality for the next decade and beyond makes devolution the best answer to some of these intractable problems of rising complex crime demands and shrinking budgets. We cannot continue to rely on national reform programmes and extra spending to improve performance, and budget reductions since 2010 have brought us to the limit of what government departments can deliver in the way of easy savings. If we want to make justice swifter, reduce the numbers of female offenders in prison, and finally tackle our high rates of reoffending, we need a radical shift in power to the local level. This is where the solutions and the innovation will be found to improve services, not in Whitehall.

Of course, it is one thing to understand the theory, another to turn it into practice. This report seeks to bridge that gap, capturing learning from nine months of work with four PCCs, representing different parts of the country. Inevitably, devolution will take different forms in different areas. Yet, as our report shows, it is nonetheless possible to identify a series of common challenges and conditions for success. We hope it will provide a roadmap for other PCCs interested in making progress on devolution.

Harvey Redgrave
Managing Director
Crest Advisory



TESTIMONIALS

Crest have produced a really insightful report into Reducing Reoffending in Avon and Somerset. The analysis has helped identify a number of key issues and made some really helpful suggestions to take forward solutions. We feel this report has given us an excellent platform to have a real impact on reducing reoffending working collaboratively with MOJ and other partners.



Sue Mountstevens, Police and Crime Commissioner for Avon and Somerset

Crest Advisory approached me with a unique opportunity to join their project to explore how it might be possible to deliver justice in Northumbria differently. I asked them to focus on women and young people - as both victims and offenders. These groups were ones where having more local control might enable us to provide better support, to improve outcomes and ultimately to save money. They looked at our crime data and met with organisations already working in these areas to see what change would be most effective. As a result, agencies are already working more collaboratively to maximise the impact of what we do.



Dame Vera Baird, Police and Crime Commissioner for Northumbria

It's been an insightful journey into the Criminal Justice system working alongside Crest Advisory. They have helped us set our priorities with a greater national context and a stronger evidence base. One in particular has been around the issues that women offenders face, which I feel we would have missed without their help.



Alison Hernandez, Police and Crime Commissioner for Devon and Cornwall

Crest's work on justice devolution has helped us to prioritise the areas upon which to focus our efforts for reform and improvement. Their analysis of the volumes and flows within the system has helped identify how our goals of 'accessible' justice, protecting victims and reducing reoffending can be achieved and our justice service improved. Crest worked with partners across the criminal justice system and provided findings specific to North Yorkshire's circumstances. Alongside other workstreams, this has helped us develop a clearer future direction for local criminal justice, which will be better placed to serve our communities in the 21st Century.



Julia Mulligan, Police and Crime Commissioner for North Yorkshire

1. INTRODUCTION

Despite continuing falls in traditional volume crimes, such as burglary and car theft, the criminal justice system remains under pressure. Our prisons are overcrowded with record levels of violence recorded in jails; reoffending rates have failed to fall substantially in over a decade, and victims are having to wait longer than ever to get justice.

These pressures stem from a variety of factors, relating partly to the changing nature of demand with an increase in complex, so-called ‘high-harm’ offences, and partly to historical policy choices taken by successive governments, from more punitive sentencing to the wider impact of austerity on public services. Unlike some other public services though, the criminal justice system appears unable to respond to these pressures, but is instead locked in a cycle of continuous failure.

The reason for this is simple: the system itself remains overly centralised, meaning there is little bottom-up pressure to reform or improve.

Principles underpinning reform



At Crest, we believe that the only way in which these failures will be systematically tackled is by breaking the centre’s grip on criminal justice - dispersing power and money downwards to local areas. Many of the levers for reducing crime lie outside the CJS at a local level - with health, education, employment and housing and require engagement and better integration locally. A more localised system, where the criminal justice services are shaped around the local area’s needs rather than looking ‘upwards’ to Whitehall, is more likely to create a system which is preventative, joined up, evidence-based and transparent

In 2016 Crest, with Governup, published [‘Examining the case for justice devolution’](#). This set out the case for devolving justice as a means to an end: to deliver better justice outcomes by providing areas with both the tools and the incentives to invest in preventing crime and reduce reoffending rather than just managing the costs of failure.

Following this, in 2017, the Hadley Trust funded Crest to work with Police and Crime Commissioners in four areas, examining the potential for criminal justice devolution to improve outcomes for victims and communities, whilst reducing costs for the taxpayer in their areas.

Our choice of areas was demand-led, driven by the PCCs who showed the most appetite for change. We aimed too to strike a balance between the areas: North and South, Conservative and Labour, urban and rural. Although every area presented its own challenges, the diversity of settings lends strength and credibility to common findings, suggesting wider applicability.

The four areas supported were:

- Avon and Somerset
- Devon and Cornwall
- Northumbria
- North Yorkshire

Our work consisted of a mix of quantitative analysis, using published and unpublished datasets to identify trends and patterns and particular areas of concern; and qualitative research, including interviews and workshops with police officers, probation managers, courts staff, youth offending teams and third sector bodies.

This report sets out the lessons learned along the way and we hope it provides a useful resource for other PCCs, Mayors and combined authorities considering the feasibility of criminal justice devolution in their areas.

2. CRIMINAL JUSTICE DEVOLUTION - THE NATIONAL CONTEXT

Devolution normally refers to the transfer of certain powers and responsibilities from national government to a particular area or region. The rationale is that decisions made locally can better meet the needs and aspirations of the people who live and work in the area.

Between May 2015 and July 2016, devolution was a major source of political energy for the Conservative government. A series of 'devolution deals' were announced - the biggest of which was in Greater Manchester - signalling Whitehall's intent to push powers and money down to local areas. These deals were given strong political backing by the then Chancellor, George Osborne. To date there have been nine major devolution deals signed around areas such as transport, adult skills and notably health.

Criminal justice devolution is essentially about creating a more localised justice system within a defined area normally under the control of a PCC or a mayor.

More localised approaches within criminal justice were initially tested through a series of justice reinvestment pilots in 2012 which sought to investigate whether local partners could be incentivised to collaborate in investing upstream to reduce demand on the prison population. Other decentralising approaches within criminal justice policy have included devolution of the youth secure remand budget (as a way to incentivise local authorities to invest in alternatives to custody) and a move to provide new freedoms for prison governors in the running of their prisons.


More recently, justice devolution has started to emerge as a component of the 'deals-based' arrangements between Government and city and other regions. Since 2016, four combined authorities have signed a 'memorandum of understanding on further devolution of powers', which have contained explicit commitments to review the scope for greater local control over criminal justice services (Greater Manchester, London, Merseyside and the West Midlands). A similar approach in Lincolnshire fell through.

Devolution of services, policy, powers, and budgets are at different stages in different regions and across different policy areas. In the absence of an official classification, the typology below attempts to categorise the different degrees of devolution, based on discussions with policymakers in the Ministry of Justice. No area has yet agreed to the formal transfer of budget and powers within the justice context. However, arguably there is much that local areas can already do - within the constraints of the current system - without the need for formal devolution of powers from central government. Devolution is essentially a process, which from the outset, needs to focus on the scope for greater collaboration between services, locally and nationally and most areas are starting from this point.

Typology of existing devolution commitments

Local powers agreed	Co-commissioning with Whitehall	Policy design with Whitehall	Delegation of budgets from Whitehall	'Full' devolution of budget and policy from Whitehall
What does this look like in practice?	A commitment to joint working or co-commissioning of services with the local area.	A commitment to involve the local area in policy decisions or give them local policy making powers in specific areas of departmental responsibilities.	A commitment to delegate budgets to the local area, but with the relevant Secretary of State and their department still setting policy, direction, and maintain overall accountability.	A commitment to full transfer of budget and associated responsibilities from a department to the local area, once 'readiness' has been demonstrated by the local area.
Where is this happening?	This has been agreed for commissioning of offender management services in Greater Manchester.	This has been agreed for elements of transport policy .	This has been agreed for health budgets in Greater Manchester.	This has been agreed for adult skills budgets for a number of areas.

3. DEVOLUTION EXPLORED

AVON AND SOMERSET			
Avon and Somerset is experiencing an increase in violent offences (in line with the rest of the country) and demand across the CJS is rising - the number of adult offenders is shrinking, but the remaining cohort is more prolific. The use of out of court disposals has fallen much more rapidly than in the rest of the country and a high use of remand ¹ contributes to pressure on prisons and probation services. The newly formed Reducing Reoffending Board are very ambitious in their desire to tackle behaviours leading to low/medium level offending causing repeat demand on the system.			
FORCE AREA 1844 square miles	POPULATION 1.65m people	+8% local 10 yr change	
CRIME SNAPSHOT JUNE 2016 TO JUNE 2017 ² Total crime (excl fraud) up 10% (E&W avg 14%) Violence up 13% (E&W avg 19%) Sexual offences up 7% (E&W avg 19%) Theft up 3% (E&W avg 11%)	CRIME RATE PER 1,000 POPULATION ³ 80.1	REOFFENDING RATE 29.6% (2014/15)	
A LOCAL CRIMINAL JUSTICE SYSTEM CHARACTERISED BY: ↑ Since 2012, recorded crime rising at a higher rate than national average ↑ HMP Bristol seriously overcrowded and struggles to deliver resettlement → Large geographical area - barrier to colocation ↑ Recent Constabulary IOM place-based review and restructure ↑ Highest recorded ‘other crimes against society’ rate in E&W ⁴ - driven by rise in public order offences possible links to homelessness/poverty		WHY AVON AND SOMERSET Strong appetite for change: Buy-in from partners and local commitment to joint working - newly formed RRB Track record on justice innovation: OPCC commissioned a major review of the CJS and Arrest intervention referral service	
SCOPE FOR DEVOLUTION			
Crest were commissioned by the PCC, Sue Mountstevens, to investigate the scope for a more devolved approach to managing offenders, particular with respect to the transition from custody into the community.			LOW-LEVEL OFFENDER MANAGEMENT

¹ Findings the result of previous work by the Behavioural Insights Team

² Police recorded crime figures

³ Excluding fraud


⁴ A&S 10 per 1,000 pop vs 4.9 avg

KEY FINDINGS

- Adult offender cohort in Avon & Somerset is decreasing in volume and becoming more prolific, both in terms of the average number of re-offences and the number of previous offences
- High proportion of female and male offenders sentenced to very short (less than six months) custodial sentences for shoplifting
- Highest recorded 'other crimes against society' rate in England and Wales (A&S 10 per 1,000 pop vs 4.9 avg) - driven by rise in public order offences with possible links to homelessness/poverty
- Local prisons are struggling to cope with demand and rehabilitation - HMP Bristol seriously overcrowded and struggles to deliver resettlement
- Higher than average repeat demand (reoffending rate and number of reoffences) from those managed by the CRC

OUR RECOMMENDATIONS

1. A&S Reducing Reoffending Board (RRB) to co-design/ co-commission of Through The Gate services	JOINED-UP THROUGH THE GATE
2. RRB to co-design and co-commission new diversion/ triage services for women at risk of entering the CJS	FEMALE OFFENDERS STRATEGY
3. Design A&S-wide female offender strategy to explore options for financing alternatives to custody for low-level female offenders with MOJ	
4. Begin negotiations with MOJ to pilot innovative alternatives to short custodial sentences as a step towards justice reinvestment	DEVELOP ALTERNATIVES TO CUSTODY
5. Conduct further analysis on impact of cuts to mental health /drugs treatment/housing services on police/ CJS demand to underpin case for devolution negotiations	STRATEGIC NEEDS ASSESSMENT EVIDENCE BASE

DEVON AND CORNWALL			
Current arrangements for rehabilitating and resettling offenders in Devon and Cornwall are complex and fragmented. This has led to gaps in the provision of services and reoffending rates remain flat. The probation arrangements put in place under the TR reforms do not appear to be working effectively. Performance targets within the CRC-contracted package are diverting the focus from quality of service and, given their limited resources, this is impacting on their ability to work effectively with offenders. There needs to be a closer alignment of offender services and more collaborative working across criminal justice, social care and health.			
FORCE AREA 3965 square miles	POPULATION 1.71m people	+6% local 10 yr change	
CRIME SNAPSHOT JUNE 2016 TO JUNE 2017 Total crime (excl fraud) up 17% (E&W avg 14%) Violence up 20% (E&W avg 19%) Sexual offences up 38% (E&W avg 19%) Theft up 13% (E&W avg 11%)	CRIME RATE PER 1,000 POPULATION ⁵ 52.1 ⁶	REOFFENDING RATE 27.4% (2014/15)	
A LOCAL CRIMINAL JUSTICE SYSTEM CHARACTERISED BY: → Large geographical area ↑ Local prisons are full (and house a lot of prisoners from outside the region), making resettlement more challenging ↑ Sexual and violent offences are rising rapidly (above national avgs) ↑ Poverty driven crime also on the rise (theft above national average)		WHY DEVON AND CORNWALL Strong appetite for change: Key stakeholders recognise problems and wish to work collaboratively Track record on justice innovation: OPCC runs an innovative diversion scheme, part funded by the Police Transformation Fund, and have an established victim services network to address victim needs	
SCOPE FOR DEVOLUTION			
The Devon and Cornwall PCC, Alison Hernandez, invited Crest to work with them in improving the provision of services for offenders and those at risk of offending to reduce and prevent offending			LOW/MEDIUM LEVEL PROBATION

⁵ Excluding fraud


⁶ ONS, CSEW, Police recorded crime by offence group and police force area, English regions and Wales, rate of offences, year ending June 2017

KEY FINDINGS

- D&C have experienced particularly high increases in sexual offences and assault with weapons, driving demand right across the CJS
- Large numbers of offenders with multiple/ complex needs are not currently receiving any form of intervention - particular issues with through-the-gate and mental health services.
- Although the CRC is mid-table in terms of reoffending rates, there are concerns about aspects of performance (particularly accommodation, plan completion and referral) and lower than expected business volumes may make the contract untenable
- The needs of female offenders are not being sufficiently considered in terms of service provision

OUR RECOMMENDATIONS

1. CRC & Reducing Offending Board to co-commission/ co-design through-the-gate (contract up for renewal April 2019)	THROUGH THE GATE
2. Co-design/ co-commission health interventions <ul style="list-style-type: none">a. Devolve to LCJB the HMCTS and HMPS psychiatric report budgets and co-design or co-commission L&D Mental Health contract (due for renewal April 2019) with NHS Englandb. Co-commissioning of substance misuse interventions	HEALTH INTERVENTIONS
3. Long-term vision to co-design or co-commission the CRC contract, with a focus on the rate card, payment schedules and fees for services	CRC CONTRACT
4. Reducing Offending Board to (1) link in with LCJB to improve the confidence & effectiveness of community sentences & (2) review the provision of services for offenders who do not reach threshold for a community penalty	COMMUNITY SENTENCES
5. Negotiate devolution of MOJ budget /co-commission with HMPS and/or CRC to improve rehabilitation and resettlement services for prisoners	
6. Expand Pathfinder cohort	DIVERSION
7. Formulate a female offenders strategy	FEMALE OFFENDERS

NORTHUMBRIA			
Female offenders place a significant demand on the criminal justice system in Northumbria and the small size of the numbers in custody (around 200) is an opportunity for action. One in five women in prison are serving a sentence of 12 months or less. Most of these offenders pose little danger to the public. Amongst this cohort of offenders, the largest group of offences are theft, which is likely to relate to their economic circumstances. Furthermore, there is scope for developing non-custodial sentences which are more effective and command the confidence of the judiciary as well as the public. The net impact of poor rehabilitation spreads wider than just the individual women themselves - to their children and children’s children.			
FORCE AREA 2144 square miles	POPULATION 1.43m people	+3% local 10 yr change	
CRIME SNAPSHOT JUNE 2016 TO JUNE 2017 Total crime (excl fraud) up 29% (E&W avg +14%) Violence up 39% (E&W avg +19%) Sexual offences up 27% (E&W avg +19%) Theft down 21% (E&W avg +11%)	CRIME RATE PER 1,000 POPULATION ⁷ 91.4 ⁸	REOFFENDING RATE 35.8% (2014/15)	
A LOCAL CRIMINAL JUSTICE SYSTEM CHARACTERISED BY: ↑ Rise in violence and high-harm crimes, in line with national trends but at higher rate ↑ Rising demand - number of victim-based crimes per 1,000 higher than national average as is 5-year rise → Young offenders in custody are placed far from home → High proportion of incarcerated women are in prison for low-level offences and a growing number are serving short custodial sentences		WHY NORTHUMBRIA ● Recognition that services for young offenders are under-funded and disjointed, meaning opportunities to stem the flow of young people into CJS could be missed ● Desire to improve outcomes for female offenders in Northumbria ● Services for female victims and witnesses are fragmented and justice is taking longer	
SCOPE FOR DEVOLUTION			WOMEN AND YOUNG OFFENDERS
The PCC for Northumbria Vera Baird asked Crest to work with her in exploring the potential for devolution to improve outcomes for women and young offenders within the criminal justice system.			

⁷ Excluding fraud


⁸ ONS, CSEW, Police recorded crime by offence group and police force area, English regions and Wales, rate of offences, year ending June 2017

KEY FINDINGS

- The relatively small size of the adult women offender cohort in Northumbria (2,932) is an opportunity to develop an enhanced, distinctive set of services for women in the CJS (the cost savings are likely to be exponential due to the ‘multiplier effect’)
- Majority of female offences in Northumbria are relatively low-level i.e. summary offences and theft
- There has been a fall in the use of out of court disposals by the police
- 75% of women convicted in court are sentenced to a fine – whilst this obviously keeps them away from prison, it means most are not connected with services which can support women in addressing their offending
- The number/ proportion of women being sentenced to immediate custody in Northumbria has risen by 35% percent over the last three years - more than two thirds (68%) are sentenced to short custodial sentences (less than 6 months)
- Female reoffending rate in Northumbria is 21% - higher than the national average (17.8%)
- Services for female and young victims are fragmented and justice is taking longer
- Resettlement planning is undermined by an overly centralised and silo’d system (e.g. CRCs often struggle to gain access to prisoners at pre-release stage; employment/ skills commissioned separately. Moreover, the CRC contract is based on process, rather than outcomes, driving perverse behaviours.

OUR RECOMMENDATIONS

1. Establish stronger governance – a powerful new strategic board chaired by the PCC, to bring local partners together and establish some shared objectives for the CJS as a whole	STRONGER JOINT LOCAL WORKING
2. A new deal for women offenders – with resettlement services co-commissioned by the PCC/ CRC/ prisons and a commitment to work with the MOJ to explore amending the terms of the CRC contract to enable greater flexibility	WOMEN OFFENDERS
3. A commitment to explore with the MOJ devolution of funding for witnesses and greater flexibility over victims grant funding	WITNESSES

NORTH YORKSHIRE			
Offender numbers in North Yorkshire are low, but becoming more prolific and spread out over a wide geographical area. In addition, criminal justice services are struggling to cover the geographic breadth of the area and the PCC is keenly aware of the adverse impact of court closures. North Yorkshire’s offenders are incarcerated outside of North Yorkshire, which hampers rehabilitation.			
FORCE AREA 3208 square miles	POPULATION 0.81m people	+5% local 10 yr change	
CRIME SNAPSHOT JUNE 2016 TO JUNE 2017 Total crime (excl fraud) up 1% (E&W avg +14%) Violence up 7% (E&W avg +19%) Sexual offences up 19% (E&W avg +19%) Theft down 5% (E&W avg +11%)	CRIME RATE PER 1,000 POPULATION ⁹ 45.9 ¹⁰	REOFFENDING RATE 31.9% (2014/15)	
A LOCAL CRIMINAL JUSTICE SYSTEM CHARACTERISED BY: → Dispersed service users → HMCTS estate rationalisation → High reoffending rates → Multiple tagging operations		WHY NORTH YORKSHIRE • Detailed understanding of local context (flows, costs, demand) • Local appetite for more local control • Volumes which justify local investment	
SCOPE FOR DEVOLUTION			
The PCC for North Yorkshire, Julia Mulligan asked Crest to work with her in exploring the potential for devolution to drive better outcomes for victims, witnesses and young offenders			VICTIMS, WITNESSES & YOUNG OFFENDERS
KEY FINDINGS			
<ul style="list-style-type: none">• The adult offender cohort in North Yorkshire is decreasing in volume and becoming more prolific. Although the most common crimes are medium level crimes, recorded violence with injury is slightly higher than the national average• The female adult offender cohort is small and focused mainly on low and medium level crime• The young offender cohort is small in number (366) and relatively prolific. The area is already developing joined up approaches to tackling youth crime, which could prove fertile ground for devolution• Local CPS performance is poor and North Yorkshire is not a geographical priority for a highly centralised agency			

⁹ Excluding fraud

¹⁰ ONS, CSEW, Police recorded crime by offence group and police force area, English regions and Wales, rate of offences, year ending June 2017

- All young and male prisoners are exported elsewhere as there is no custodial provision for these groups in North Yorkshire
- Local reoffending rates recorded by the local CRC and NPS are higher than the national average. This data also covers Humberside and Lincolnshire as it cannot be separated.

OUR RECOMMENDATIONS

1. Pilot a flexible court with HMCTS and introduce problem solving practices	ACCESSIBLE JUSTICE
2. Establish local intensive community orders for appropriate cohorts (young adults and women)	COMMUNITY ALTERNATIVES
3. Engage MOJ to explore amending the terms of the CRC and devolving CRC contacts to North Yorkshire	CRC
4. A commitment to explore with the MOJ devolution of funding for witnesses and greater flexibility over victims grant funding	WITNESSES
5. Negotiate devolving youth custody budget in order to commission prison places for young people	YOUNG OFFENDERS
6. Co-commission CRC Through the Gate services and combine tagging commissioning	THROUGH THE GATE & TAGGING

4. LEARNING THE LESSONS

All of the areas we worked with were grappling with huge challenges as a result of a rise in demand (driven by increases in violence) and squeezed national budgets (following seven years of austerity). The most entrepreneurial PCCs are using this as an opportunity to drive change, persuading local partners that ‘business as usual’ will no longer deliver the kinds of improvements in safety that citizens expect.

Historically, central government has responded to crises within the CJS by tightening its grip. However, the crisis currently unfolding in our prisons and in probation services, and the problems surrounding the ‘Transforming Rehabilitation’ reforms, is leading many areas to question this assumption - many now believe that devolution is the only viable way to get a grip of the system.

Radical changes to the system are unlikely to emerge in the near future from Government, consumed as it is by Brexit. New ideas and thinking to improve services are more likely to emerge from local areas and services. While Government hold the levers, it is up to areas to make the case for them to let them go. The message we heard in many areas was that it was time “to focus on what we can do ourselves, before defining the ask from government”.

PCCs in the areas we worked with during this project were clear that they were driving devolution from the bottom up.

Conditions for successful devolution

Our work with PCCs suggests that there are five conditions which need to be in place in order to drive forward justice devolution:

1. Knowing what you want to achieve - the wider strategic objectives
2. Knowing the local criminal justice picture - and what needs to change
3. Knowing who is in the system: focus on people rather than structures, particularly the repeat offenders who drive demand
4. Democratic accountability and robust governance
5. Getting local buy-in for change

1. Knowing what you want to achieve- the wider strategic objectives

Seeking greater devolution should not be seen as an end in itself, but as a means to improving outcomes for local citizens. Criminal justice devolution is, therefore, likely to work best in areas where local leaders already have a very clear idea of what they are trying to achieve and why devolution is necessary for achieving it.

The differential impact of national policies on areas is an important driver for those wanting to have more devolved arrangements. For example, the national court closure programme will have a significant impact in an area like North Yorkshire, where the population is very dispersed, and people need to travel long distances - it could mean the difference between a victim attending court to give evidence or not. This drove the strategy for developing more flexible court arrangements, with pop up courts to bring justice to the people rather than the other way round.

A common issue is that young offenders in particular are often in custody far from home. This has several negative effects including less contact and fewer visits from family and fewer visits from professionals involved in their care and support; it also made it harder to provide continuity of care on release from custody. The average distance children are incarcerated from home has risen by 9% in the last decade.¹¹ Analysis by HM Inspectorate of Prisons in 2016 found that each 25-mile interval that a child is held from home results in one less visit from a family member or friend; each 26-mile interval with one fewer visit from a professional.¹² PCCs were therefore keen where possible to look at the feasibility of commissioning youth custody places locally as part of creating a distinct approach to justice in their area.

Vision for criminal justice reform in Devon and Cornwall



Some areas sought to encapsulate their objectives within a broader vision for reform (see opposite).

Others sought to use devolution as a means for transforming outcomes for particularly vulnerable cohorts. In Northumbria, for example, devolution was seen by the PCC as a means to improve outcomes for women involved in the criminal justice system. The relatively small cohort of women offenders provided an opportunity to develop an enhanced set of services as well as cost savings which tend to be magnified for women due to the impact and cost to their children, particularly for those who end up in custody.

¹¹ Youth Justice Board (2016) Personal communication. 31 August. Average distance from place of incarceration to home has risen from 45 miles in 2005/06 to 49 miles in 2015/16, an increase of 9%

¹² 2016, [The impact of distance from home on children in custody](#), HMIP

Avon and Somerset see devolution as a way to reduce reoffending through improving the management of repeat offenders and their transition from custody to the community.

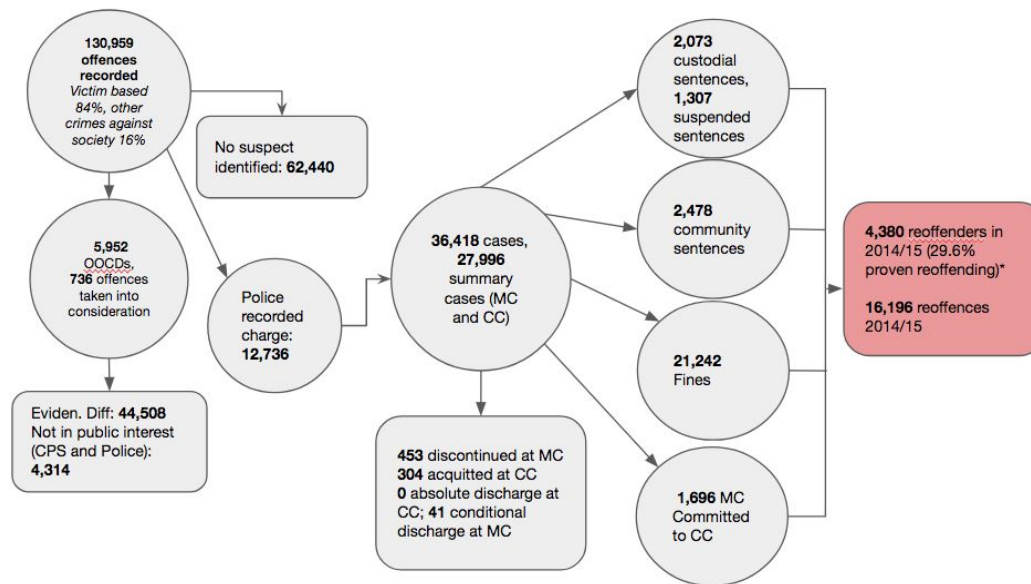
Where the wider vision and strategic objectives are unclear, areas will struggle to make progress towards devolution, either attempting to bite off too much, or getting overly bogged down in the technocratic detail of reform. For example, at the outset, discussions with some stakeholders tended to get caught up in discussions about process and focusing on how particular services were structured or managed. Much greater clarity was achieved where the discussion focused on the outcomes desired for particular groups, such as diverting women from custody, or how victims could get to court in rural communities. Once these were clarified, it was possible to identify the changes – both strategic and operational – needed to ensure that services collaborate in achieving them.

2. Know the local criminal justice picture - and what needs to change

Understanding how the CJS works locally is particularly challenging for a highly centralised system, made up of different components, run from different departments, and with different objectives. In each area we examined the local criminal justice picture as a cross-section, showing the flow of offenders through the system, as well as looking at crime trends and costs. These maps helped partners to see the criminal justice eco-system, and who was in it, more clearly.

In Avon and Somerset we looked at flows of offenders through the system in 2016.

Flows through the system, Avon and Somerset 2016¹³



In Northumbria we mapped the women offenders journey through the justice system. This identified significant overlaps between victims and offenders (with women offenders who are also victims of domestic abuse) and that 87% of offences for which women were prosecuted in Northumbria in 2015 were summary offences (the national average is 85%), compared to 70% for men. It also showed that a high proportion of these offenders go on to receive fines (82%) – meaning no support is provided to address the underlying causes of their offending behaviour.

We were also able to map the approximate costs of particular crimes and sentences to specific areas.^{14 15} Understanding the economic and social costs of the system and the potential to reduce longer term costs through more effective interventions is a vital component in making the case for greater control over the local system.

¹³ MOJ proven reoffending statistics, 2017, [Geographical data tool, October 2015 to December 2015](#). 2015 proven reoffending rate for anyone released from custody, received a non-custodial conviction at court or received a reprimand or warning in the period October 2014 to September 2015.

¹⁴ As at 31/12/16. [The economic and social costs of crime](#), Home Office, 2000. Average cost of an offence - [Unit cost database](#), New Economy, 2015

¹⁵ Average cost of an offence - [Unit cost database](#), New Economy, 2015. [Proven Reoffending Statistics Quarterly](#), MOJ, July 2017

Calculating the cost of crime to Devon and Cornwall

Estimated costs of selected crimes to D&C police, 2016¹⁶

Offence	D&C Volume (31/12/2016)	Average cost to police	D&C cost to the police
Homicide	9	£ 11,000	£ 99,000
Violence with injury	11,642	£ 1,400	£ 16,298,800
Violence without injury	14,170	£ 130	£ 1,842,100
Sexual offences	3058	£ 1,900	£ 5,810,200
Robbery	382	£ 240	£ 91,680
Domestic burglary	2,656	£ 240	£ 637,440
Non-domestic burglary	3,382	£ 680	£ 2,299,760
Vehicle offences	4,703	£ 20	£ 94,060
Theft from the person	825	£ 680	£ 561,000
Bicycle theft	807	£ 10	£ 8,070
Shoplifting	6,620	£ 20	£ 132,400
Other theft offences	9,863	£ 10	£ 98,630
Criminal damage and arson	13,632	£ 30	£ 408,960
Drug offences	3,548	£ 515	£ 1,827,220
Possession of weapons offences	608	£ 390	£ 237,120
Public order offences	4,669	£ 30	£ 140,070
Miscellaneous crimes	1,319	£ 30	£ 39,570

Average costs to the CJS of adult offending in D&C, 2016¹⁷

Custodial sentences

£53,792,960

Estimated average costs: 1,544 x £34,840

Suspended sentences

£4,034,800

Estimated average costs: 1,441 x £2,800

Community sentences

£4,130,000

Estimated average costs: 1,475 x £2,800

Court events

(summary and non summary)

£42,211,982

Estimated average costs: (non-summary 6,590 x £5,076 + summary 20,761 x £422)

Reoffending

£7,586,046

Estimated average costs: 11,442 x £663

3. Focus on people, rather than structures/ institutions

Devolution is more likely to be successful when the focus is on improving outcomes for specific cohorts of offenders, or victims, rather than changes to the structure and management of local services. As the offending population becomes more complex and more concentrated, areas found that it was most effective to focus on particular cohorts of offenders that are known to drive a significant proportion of demand, and for whom there is an evidenced case for a distinctive approach.

¹⁶ As at 31/12/2016. [The economic and social costs of crime](#), Home Office, 2000; * Average cost of an offence - [Unit cost database](#), New Economy, 2015;

¹⁷ Average costs of incidents/sentences multiplied by number of incidents/sentences

Female offenders

The cohort of female offenders tends to be few in number, but prolific, with significant proportion of offending relating to theft - often associated with economic need. While the numbers in custody are small, again these tend to be short sentences for non-violent offences.

Northumbria: 75% of women convicted in court are sentenced to a fine – whilst this obviously keeps them away from prison, there will not be an opportunity to identify if they have the necessary support to address their offending. Number of women sentenced to immediate custody has risen by 35% over the last three years - more than two thirds (68%) are sentenced to short custodial sentences (less than 6 months.)

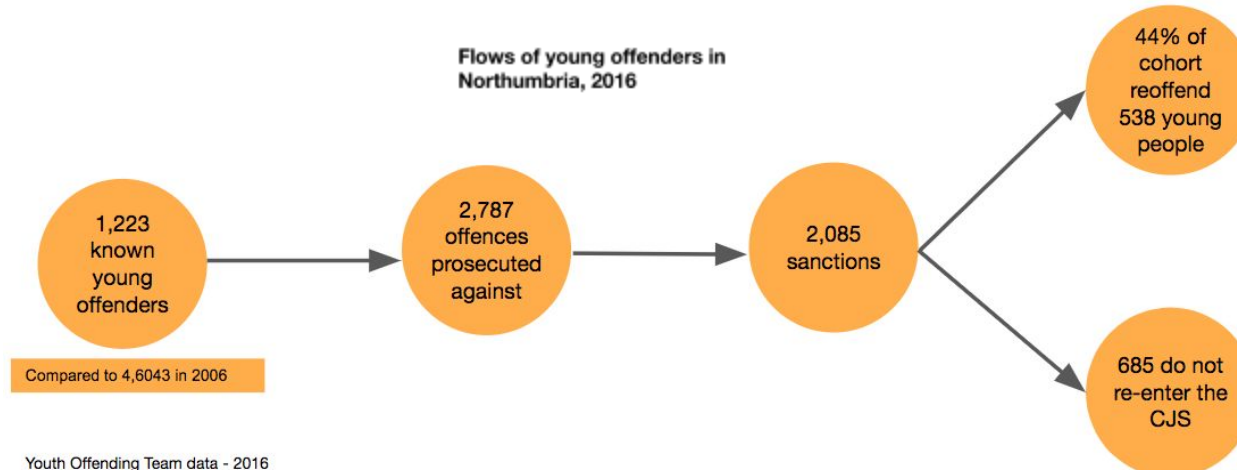
North Yorkshire: the adult female cohort is relatively small, and has been decreasing over the past decade but becoming more prolific, with the majority of sentenced offenders subject to non-custodial sentences. The relatively high number of suspended sentences given for low/medium level offenders (28 for theft offences), suggests there is a cohort of prolific offenders who could benefit from more effective local solutions to address offending.

Avon and Somerset: of the women sentenced to custody in 2016, 71% (117) received a short sentence (less than 12 months). Digging deeper, of those women serving short custodial sentences, we see that just over a third (34%) are for theft offences - principally, shoplifting - is this appropriate for custody?

Devon and Cornwall: Concern that female offenders were not getting the services they need, 87 female offenders were sentenced to custody outside of Devon and Cornwall in 2016 - this is inefficient and costly.

Young prolific offenders

While nationally there has been a fall in new entrants into the youth justice system, the result has been a greater concentration of prolific offenders, who are responsible for much violent crime and their reoffending rates are increasing. The evidence suggests that these young people have significant and multiple adverse childhood experiences and many have been looked after children.



In Northumbria:¹⁸

- There are 1,223 known young offenders within Northumbria (116% decline since 2006)
- However, as the cohort of young offenders gets smaller, there is evidence that it is also becoming more challenging/complex e.g. with higher levels of reoffending
- Violence against the person now represents the highest proportion of youth offending
- The majority of young people sentenced in the court are given a community sentence - a very small number of young offenders are sentenced to custody
- The vast majority of young offenders in Northumbria are male, white and commit offences within Newcastle and Sunderland

Short sentenced prisoners

There is evidence that short term prison sentences (less than 12 months) do not generally serve a rehabilitative purpose and often compound offender problems. On the one hand, the disruption caused to housing, employment and relationships by someone going into custody for a short period, and on the other, the inability of the prison service to provide any meaningful interventions or assistance.

They also cause a great deal of churn in the prison system, making up 54 percent of offenders received into prison over the course of a single year (excluding those on remand). They also have the highest reoffending rate of any group of sentenced prisoners and

Avon and Somerset:

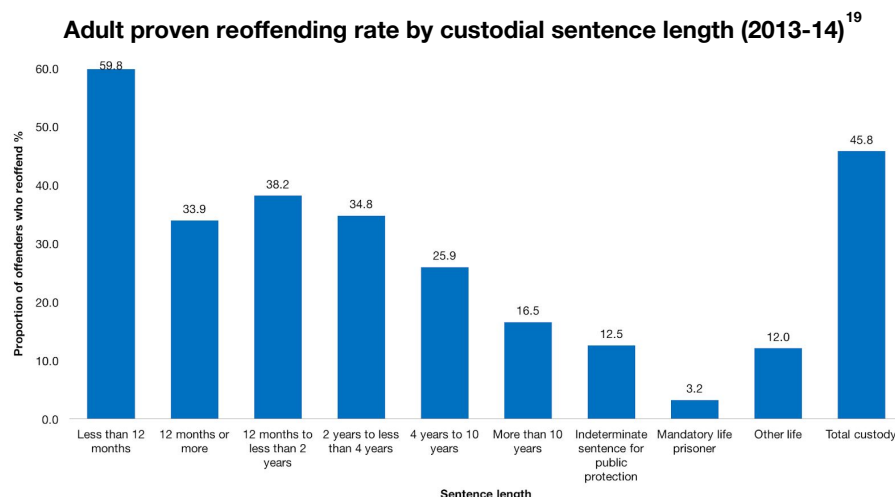
- Of the 1,904 men sentenced to custody in 2016, 63% received a short custodial sentence
- Short custodial sentences for theft offences make up 20% of this total - the majority (64%) of these theft offences are for shoplifting, mostly for less than three months.
- Reoffending rates for this cohort are typically as high as 60%
- The high level of short sentences should be seen in the context of extremely overcrowded local prisons, particularly HMP Bristol

Devon and Cornwall;

- Theft and non-summary offences (including assault, some driving offences and public order) and attract a maximum of 6-month sentence) make up 40% of the offences that result in custody.
- The prisons in the Devon and Cornwall area are overcrowded.

¹⁸ Youth Offending Team data 2016

so add a huge pressure on an already overstretched system.



4. Robust governance and accountability

Devolution should strengthen, rather than undermine, democratic accountability. In the vast majority of cases, that must involve devolution to a single, visible elected leader, rather than to a committee. Whether that person is a directly elected mayor or a PCC will depend on local circumstances. The mayoral model is clearly well suited to large, clearly bounded metropolitan regions (e.g. Greater Manchester, the West Midlands and London). In other areas, the lack of a single dominant conurbation makes PCCs, as elected representatives of a single police force area, more appropriate. The Government recognises that in order to fulfil the ‘crime’ part of their title, PCCs will need greater oversight of CJS beyond policing and made a commitment to this in the Conservative’s 2017 election manifesto.

Devolution should bring with it robust governance. Beyond policing, where priorities are now set locally by the PCC, there is little local governance of criminal justice agencies; the courts, probation and CPS all have priorities which are set nationally by the Ministry of Justice, Her Majesty’s Courts and Tribunal Service or the Director of Public Prosecutions. This does present significant barriers to making the system align locally as each services work to different objectives and performance measures, an issue explored in depth in a previous Crest report, [All on the Same Side](#) (2017).

¹⁹ MOJ (2016), Proven Re-offending Statistics Quarterly, January 2016, Table C2a

Current accountability and performance arrangements

<p>CPS</p> <p><u>Accountability:</u> CPS staff internally accountable to local Chief Crown Prosecutor and DPP</p> <p><u>KPIs:</u> conviction rates, % guilty pleas, case file prep</p>	<p>Prison service</p> <p><u>Accountability:</u> Governors accountable upwards to NOMS</p> <p><u>KPIs:</u> escapes, absconds, no. of behaviour programme starts</p>
<p>Probation</p> <p><u>Accountability:</u> National Probation Service and CRCs commissioned centrally</p> <p><u>KPIs:</u> frequency of re-offending rates</p>	<p>Courts</p> <p><u>Accountability:</u> Courts (Crown, magistrates, civil) & tribunals all managed by HMCTS</p> <p><u>KPIs:</u> trial delays, use of court estate</p>

Crest's previous research suggest performance measures which should:

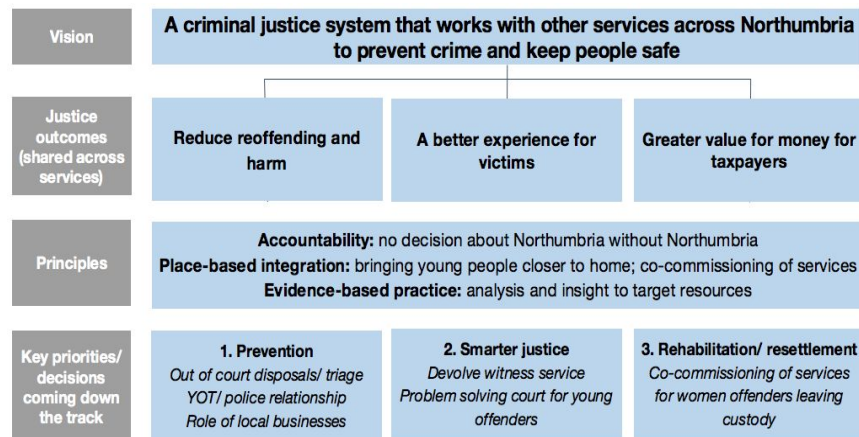
- **be feasible:** they should take into account the context and the ability of that service to influence the outcomes
- reflect the **interdependencies between agencies**
- **be flexible:** in order to be able to adapt and incorporate changing realities and demands on the services that are being examined, rather than being fixed e.g. rise of new types of crime
- **have consistency of data capturing,** in order to baseline measures, is vital - but a common barrier
- **be comprehensive:** qualitative and quantitative measures must be used - providing a rounded assessment of performance including 'softer' outcomes

CRCs are supposed to be paid according to whether they successfully 'reduce reoffending', as part of their service contract. In reality, this has been a poorly designed measure of success because:

- length of time (2 years+) means it is not an effective incentive to drive behaviours
- the key levers for achieving the target lie outside the CJS (e.g. housing, skills etc)
- it is not a real measure of reoffending, since it only measures reconvictions

In all areas, the PCC has either chaired or played an active role in their Local Criminal Justice Board or a Reducing Reoffending Board. In a more collaborative system, agreeing shared objectives underpinned by a series of principles to which key partners can be held to account is an important way of strengthening governance locally.

This proposed shared outcomes framework from Northumbria shows the overriding outcomes that the Reducing Reoffending Board will work to, underpinned by a series of principles.



5. Knowing your stakeholders: getting local buy-in for change

The recent history of justice devolution suggests it is only when all local stakeholders - the police, prosecution, courts, prisons and probation - buy into the need for reform, that momentum for change starts to get traction. Where PCCs or combined authorities have attempted to run ahead with reform, without taking local stakeholders with them, devolution has ended up being bogged down. In 2016 the Ministry of Justice announced that Lincolnshire was to become one of ten devolution pilot areas. The combined authority announced plans to bid for/ fund a new local prison. However, the PCC was never brought into the process. It ended up collapsing in acrimony in late 2016 following a vote by the County Council against the proposal of a directly elected Mayor.

Barriers to change

Our work with PCCs highlighted a number of challenges that need to be addressed if greater justice devolution is to be achieved.

Lack of coterminosity

Criminal justice devolution is more easily implemented if there is coterminosity between police force areas and the structures of the wider criminal justice system. Currently though, governance structures are very complex: with 42 PCCs/mayors and 43 police force areas, 21 probation contract and prison areas, 7 NPS regions, 13 CPS areas and 7 courts regions. This has led to a highly complex and fragmented delivery landscape and very significant challenges for some areas. Recent reforms have actually created more fragmentation rather than less and new boundaries have been created against the grain of established ones.

Police force areas have established boundaries, which are well understood and now have democratic oversight through Police and Crime Commissioners. CJS structures need to be aligned more closely with recognised and democratic structures in future.

The table below illustrates the consequences: it shows the governance structures of the local criminal justice systems of the PCC areas used as case study areas for this report and how they overlap with other PCC areas.

Relationship between 4 PCC Case Study Police Force Areas (PFA) and their local justice governance structures								
	Local CRC covers	NPS region covers	CPS region covers	Court areas in PFA	Prisons in PFA	Community Safety Partnerships in PFA	Clinical Commissioning Groups covering PFA	MH Partnerships covering PFA
Avon and Somerset	3 PFAs in total	7 PFAs in total	3 PFAs in total	8	2	5	5	2
Devon and Cornwall	2 PFAs in total	7 PFAs in total	3 PFAs in total	6	3	4	5	2
North Yorkshire	3 PFAs in total	8 PFAs in total	4 PFAs in total	4	1	2	4	2
Northumbria	1 PFAs in total	8 PFAs in total	4 PFAs in total	2	1	6	5	1

CRC contracts

The areas we worked with felt that the design of CRCs' contracts was a barrier to innovation, incentivising them to pursue process-based targets, rather than focusing on improving outcomes and addressing needs. Each of the 21 CRCs is measured by targets stipulated contractually in the annual service level agreement, as well as by seven quality assurance metrics; these targets

determine the level of payment each company receives. Targets tend to be outputs, rather than outcomes such as the percentage of offenders released from custody who have a face to face appointment within a day of release, and the proportion of offenders who 'receive' pre-release activity and planning 12 weeks prior to release.

CRCs alone cannot resettle offenders and nor do they currently have the incentives to do so. Supporting prisoners to find housing, work, training, manage debt and finances requires well embedded arrangements with partner agencies, as well as an understanding of offenders' interconnected needs - neither of which were well developed in areas we worked with. As a result, resettlement support was not adequate.

Lack of data-sharing

A third important challenge - common across all the areas - was around accessing relevant criminal justice data. We were surprised to find that the Office of the Police and Crime Commissioner who was usually the driving force behind these projects, often did not have automatic access to non-police CJS data and there was significant reluctance expressed by some agencies to share information.

There were the frequently expressed concerns about confidentiality or commercial sensitivity but this was often speculated to be cover for a resistance to share data out of concern for how it could be used and what it may reveal about services and activity;

Data-sharing agreements can help but can be lengthy to complete and process-heavy and may not solve problems where failure to share is a matter of reluctance. Concern and anxiety about how information will be used and what it is needed for, may be better overcome by sitting down to understand the benefits to users of the services as well as the benefit and challenges for individual services.

Where the data exists and can be accessed, it tends to be collected in a variety of formats, covering different time periods and is often not joined up, making it hard to measure system-wide impacts. For example, it was often difficult to find a single organisation with an overview of victims' referrals in a police force area. Similarly, as we have already seen, CRC's data may cover several force areas and cannot easily be broken down to enable meaningful comparison within a force area. For example, in North Yorkshire, while local reoffending rates appear to be above national average and was a source of concern, getting a clear picture locally was not possible because reoffending rates for North Yorkshire cannot be separated from those of Humberside and Lincolnshire.

Cultural/ political resistance to change

Often criminal justice devolution is held back by a broader cultural resistance to change. More than once we found that, despite strong appetite for reform from the PCC, there were local agencies who were reluctant to explore the case for devolution. In particular, practitioners representing the courts and prosecution service were often not in a position to discuss the scope for greater co-commissioning, pooled budgets or shared priorities, because of a perception that to do so would be outside of their remit. Such attitudes go to the heart of the problem of a centralised system which looks 'up' towards Whitehall and which constrains action to improve place based public services.

5. CONCLUSIONS

Despite the challenges, there is great potential for the process towards justice devolution, to increase local flexibility, drive innovation, better coordination and create a more locally focused set of solutions to criminal justice challenges. There are also reasons to think now is an opportune time to drive forward with change.

Using the power of the PCC's and mayors' mandate to drive change

Whilst PCCs lack formal powers over the criminal justice system, as visible democratically elected figures, they have considerable 'soft' power, which they are increasingly able to wield. All four of the PCCs we worked with were clear that meeting their commitments to voters and local citizens would require driving reform across the local CJS, rather than stopping at policing.

This is in line with the clear commitment in the 2017 Conservative manifesto to devolve further powers to PCCs - an important signal from Government for those areas committed to driving a more devolved approach.

What can be done now?

CRC contracts with MOJ are in place until 2021 and what will follow this is not yet clear. Crest's view is that areas should be actively planning now for what a good local system would look like once those contracts expire, and the steps that can be taken within existing arrangements, such as joint commissioning and co-design to help make progress along that trajectory. In this way, PCCs and local partners will be much better placed by 2021 to make the case to MOJ for the need for more joined up probation arrangements with proposals for how they should work locally.

The options proposed in the areas we worked with reflected this staged approach to justice devolution:



Technological change

The importance of good data cannot be overstated. In making the case for change, local areas need to be able to build a picture of how an offender moves through the CJS from the point of arrest up to the point at which they complete their sentence and are reintegrated back into the community, assess the feasibility of alternative delivery models and quantify the costs of current ways of working. In our experience, very few PCCs have access to the data that they need and even those that do, lack the means to be able to analyse and utilise that data effectively.

Improvements in technology are unlocking the potential for collaboration. For example, the potential to integrate data across different agencies (e.g. by moving it into the 'cloud') means individual agencies are increasingly able to access important information held by partners (e.g. about an offender's case history) in a way that was not possible several years ago.

Justice devolution is a means to achieving a vision, not the vision itself. At Crest we believe that it provides a great opportunity for criminal justice services to become more localised, preventative and collaborative and to drive better outcomes for victims and communities.

Crest Advisory

We would like to thank the Hadley Trust for funding this work and the PCCs and local stakeholders who we worked with during this project.

If you would like more information about Crest and its work, please contact us on:
(020) 3542 8993. Follow us @crestadvisory
www.crestadvisory.com