Criminal Justice Joint Inspection
Arolygiad ar y Cyd Cyfiawnder Troseddol

Out-of-court disposal work in youth offending teams

An inspection by HM Inspectorate of Probation and HM Inspectorate of Constabulary and Fire & Rescue Services

March 2017

Thematic Inspection

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This inspection was led by HM Inspector Ian Menary, supported by Andrew Reed from HM Inspectorate of Constabulary and Fire & Rescue Services,[1] along with a team of inspectors, as well as staff from the HM Inspectorate of Probation operations and research teams. The Assistant Chief Inspector responsible for this inspection programme was Helen Mercer. We would like to thank all those who helped plan and took part in the inspection; without their help and cooperation, the inspection would not have been possible.

This publication is available for download at:

www.justiceinspectorates.gov.uk/hmiprobation

Published by:

Her Majesty's Inspectorate of Probation
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Manchester Civil Justice Centre
1 Bridge Street West
Manchester
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1 This inspection commenced before 19 July 2017, when HM Inspectorate of Constabulary (HMIC) also took on responsibility for inspection of fire and rescue services, and was renamed HM Inspectorate of Constabulary and Fire & Rescue Services (HMICFRS). The methodology underpinning the inspection findings is unaffected by this change. References to HMICFRS in this report may relate to an event that happened before 19 July 2017 when HMICFRS was HMIC. Citations of documents published by HMIC before 19 July 2017 will still cite HMIC as the publisher.

Foreword

In this inspection, we examined the work done by Youth Offending Teams (YOTs) and the police with children who have committed (usually) low-level offences dealt with without going to court, known as out-of-court disposals. YOTs have the opportunity to work with many of these children. This is not a soft option for those children, as sometimes portrayed. We found YOTs often doing good and effective work to make it less likely that children would offend again, and to enable them to change their lives for the better. However, with some specific changes, the work could be better still and more children could benefit, as well as local communities and society as a whole.

Work to divert children from entering the criminal justice system is commonly recognised to be a success story. Our inspection supports that view. It is difficult to prove the success empirically however, since there is little systematic monitoring, beyond knowing that the number of new entrants has fallen considerably and consistently over many years.

We were pleased to find that most areas operated schemes for out-of-court disposals that exceeded minimum requirements, and sometimes far exceeded them. The work was well linked strategically and operationally to other local initiatives intended to make sure that children do not offend. We found the critical relationships and joint working between YOTs and the police were universally good. Increasingly, the decision on what disposal a child should receive was made jointly, informed by YOT knowledge of that child.

YOTs were generally doing a good job to help those children they worked with avoid offending; but with improved planning and assessment, and more attention given to the views of the child, this work could be better still. YOT staff we interviewed were skilled, and were committed to reducing the numbers of victims and improving children's life chances. We often found evidence of positive progress in the cases we inspected. Victims, however, were not always as engaged in the process as they should be. This echoes previous inspection findings, and so requires renewed focus.

Preventing children from starting to offend, or their offending behaviour becoming entrenched, is good for potential victims, good for the children themselves, and saves the considerable costs incurred if further offences happen. In this inspection report we provide a set of indicators of good quality out-of-court disposal work, and hope it proves useful to individual YOT teams and their leaders as they evaluate their own work.

We understand this work is a priority for the government, as it has been for previous administrations. Making sure that it is as effective as it can be, that it improves the life chances of the children involved, and that it is sustained should be good for all of us.

Dame Glenys Stacey
HM Chief Inspector of Probation

Wendy Williams
HM Inspector of Constabulary

March 2018

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Key facts

152	The number of youth offending teams (YOTs) in England and Wales
-84%	The change in the number of children who were first-time entrants[2] to the criminal justice system in the ten years between March 2007 and March 2016[3]
-86.3%	The change in the number of cautions, conditional cautions, reprimands and final warnings issued to children in the ten years between March 2007 and March 2016[4]
Not known[5]	The change in the number of community resolutions[6] issued to children in the ten years between March 2007 and March 2016
Not known	The reoffending rate after 12 months of children who received a community resolution between April 2014 and March 2015
30.7%	The reoffending rate after 12 months of children who received a caution or conditional caution between April 2014 and March 2015
51.3%	The reoffending rate after 12 months of children who received a community or custodial sentence between April 2014 and March 2015[7]
80%	The proportion of areas reporting that they have a joint decision-making process involving the police and YOT for some or all community resolutions or initial youth cautions
81%	The proportion of areas reporting that the YOT undertook assessment on some or all community resolution or youth caution cases to inform the disposal decision[8]

2 A first-time entrant is a child who receives a statutory criminal justice outcome (youth caution, youth conditional caution or conviction) for the first time.

3 First time entrants to the Youth Justice System, *Youth Justice Statistics 2015-16*, MoJ, January 2017.

4 Gateway to the Youth Justice System, year ending March 2016, Youth Justice Statistics 2015-16, MoJ, January 2017.

5 Neither the number of community resolutions issued nor the reoffending rate following them are currently collated nationally.

6 A community resolution is a generic term for the non-statutory out-of-court disposal used in cases where the outcome following acknowledged offending does not involve charging, caution or conditional caution

7 Proven reoffending by young people, Youth Justice Statistics 2015-16, MoJ, January 2017.

8 HMI Probation survey of youth offending teams, May 2017, unpublished.

Out-of-court disposals explained

Youth offending teams

Youth offending teams (YOTs)[9] are multidisciplinary statutory partnerships[10] that aim to prevent offending by children. In doing that, they aim to deal with the needs of the whole child, not just those needs most directly linked to offending behaviour.

YOT work is governed and shaped nationally by a range of legislation and guidance, much of it specific to the youth justice sector. The Youth Justice Board for England and Wales (YJB) oversees the work of YOTs. It monitors their performance, produces guidance and provides some YOT funding. In Wales, YJB Cymru has many of these responsibilities. Locally, work to prevent offending by children is overseen by a YOT management board of all the statutory partners[11] who contribute to the work of the YOT, often along with voluntary or other partners.

Youth offending teams supervise 10-18 year olds who have been sentenced by a court. Numbers have reduced considerably in recent years. They often also supervise those who have been dealt with without going to court, having come to the attention of the police because of their offending behaviour. The balance of YOT work has changed, with a greater proportion now in relation to these non-court cases, known as out-of-court disposals.

Out-of-court disposals

Dealing with some cases without taking them to court has been a long-standing approach within the criminal justice system. Prior to 2012 the statutory out-of-court disposals used with children consisted of reprimands and final warnings.

The current framework is laid out in the *Legal Aid Sentencing and Punishment of Offenders Act* (LASPO) 2012. There are now two statutory out-of-court disposals for children – the youth caution and the youth conditional caution. Options for adults are different. There is also a non-statutory option commonly referred to as a community resolution; although many different terms are used for these locally. The term out-of-court disposal includes all three.

An out-of-court disposal does not involve trial or sentencing in a court. Instead, the aim is to divert the child from future involvement in the criminal justice system, in the best interests of both the child and justice. They are most suited to children who are not regular offenders but have committed a low-level offence. It is therefore rare for them to be used for more serious offences or with prolific offenders.

Community resolution (CR) – is an alternative way of dealing with less serious crimes that allows the police to use their professional judgement when dealing with a child who has committed an offence. It would normally seek to resolve the offence in an informal way that brings closure for the victim, where one has been identified,

9 The term YOT is used for simplicity throughout this report to refer to youth offending teams, since this is the title used in legislation. In practice, they are known locally by many titles. See Glossary for further information.

10 *Crime and Disorder Act 1998* Section 39.

11 The statutory partners are the local authority, police, probation and health services.

in a timely manner. It may involve the offender doing something that 'puts right' the offending to the satisfaction of the victim, and should take account of their views. Initial CRs may often be delivered directly by the investigating police officer, without the child having been arrested. This is sometimes referred to as "Street RJ (restorative justice)". A CR may also be given where, following consideration of the options available, it is more suitable than a caution. Receipt of a CR is recorded in local police systems but is not recorded on the PNC and does not form part of a formal criminal record.

Youth caution (YC) – A youth caution is a formal notice, issued by a police officer and accepted by the child, once a child has admitted an offence, that cautions them not to reoffend and warns them of the potential consequences of doing so. It is used in cases, usually of relatively low-level offending, where it is not in the public interest to prosecute the child who has offended. A YC does not have specific conditions attached to it. It is, however, recorded on the police national computer (PNC) and forms part of a child's criminal record.

Youth conditional caution (YCC) – A YCC is similar to a YC, but in addition has specific conditions attached that the child is required to adhere to, for a period of up to three months. If the child does not comply with these conditions then the police may choose to recommend prosecution. It is likely to be used in cases where prosecution is not in the public interest but the police consider that specific actions are required to reduce the likelihood of further offending, to protect the specific victim, or where previous out-of-court disposals have not been effective.

When can an out-of-court disposal be considered? Three tests must be satisfied in all cases:

- an offence has been committed
- an offender has been identified
- the offender has accepted responsibility[12] for the offence.

Once all these tests have been satisfied, the police can consider an out-of-court disposal instead of charging the child and taking them to court.

The police are responsible for out-of-court disposals, but they must tell the local YOT where a caution has been given, and whenever they are considering a YCC. Often the YOT is also informed when a CR has been given. The YOT can then undertake an assessment of the child and may decide to offer support to the child, to help the child to turn away from crime. Increasingly YOTs also contribute, through a panel or otherwise, to the decision about whether an out-of-court disposal is suitable in the specific case. Each of these aspects are discussed in detail later in this report.

Following a CR or a YC, the child's involvement in any work with the YOT is voluntary. Following a YCC, their involvement is mandatory and can be enforced, including through charges for the original offence. The engagement of the child can be cited in future court proceedings concerning them.

Often use of a CR is accompanied by a signed acknowledgement that it has been received, and of any conditions that may have been attached to it. Subsequent adherence to any conditions agreed as part of a CR is voluntary.

12 The discrepancy between accepting responsibility for an offence and admitting an offence is discussed elsewhere in this report.

Other work with children

Many YOTs also work with children who have not committed a crime, but show an increased likelihood of doing so. The extent to which such work is undertaken by YOTs, or elsewhere within a Local Authority, varies considerably. There is no standard terminology to cover the breadth of pre-offending work, whoever undertakes it. Locally, terms such as early help, diversion, prevention and out-of-court work may be used interchangeably to cover the broad range of work done by YOTs and Local Authority children's services departments to avoid adverse outcomes for children.

There should be both strategic and operational links between pre-offending and out-of-court disposal work, with a common objective, to deal with the child's behaviour as early as possible at the lowest appropriate level, and to reduce the likelihood of them offending in the future.

This inspection covers out-of-court disposals only: work with children that has arisen from police activity, and where the three conditions for an out-of-court disposal have been satisfied.

Criminal records

Receipt of a community resolution does not lead to a formal criminal record.

Details are, however, recorded in local police systems and may be disclosed at the police's discretion – for example, in response to an enhanced Disclosure and Barring Service (DBS) check linked to a job application for which the behaviour is considered relevant. Statutory guidance is provided to assist with this.[13] Details of YCs and YCCs are also recorded on the PNC.

Out-of-court disposals aim to divert children from the criminal justice system; but, in view of the potential for disclosure, they could have future consequences nevertheless.

13 Guidance to Chief Constables on what to include in response to a DBS check can be found at https://www.gov.uk/government/publications/statutory-disclosure-guidance

Executive summary

Leadership

We found clear leadership of out-of-court disposals in local partnerships. There was a universal recognition of the importance of achieving positive outcomes for children and their futures, while also recognising the impact on victims.

Out-of-court work was a strategic priority in all the areas that we visited, and was clearly led by the YOT management board. Police and Crime Commissioners (PCCs) were an important strategic funding partner in many areas. There were good strategic and operational links between out-of-court disposal work and other local preventative and diversionary work. Staff were committed, knowledgeable and generally well trained.

The commitment to out-of-court disposal work by the police, both strategically and operationally, was always good and sometimes impressive. Operational police staff clearly understood the expectations on them for out-of-court disposals. All forces had systems to prevent excessive use of police-issued community resolutions without reference to the YOT, although their effectiveness was unclear.

The successes arising from out-of-court work receive little or no national or local publicity, yet good coverage could increase sentencer and public confidence.

Delivery

The quality of intervention work in out-of-court disposals was good and effective.

Most local out-of-court disposal schemes exceeded the minimum requirements of the statutory and recommended national frameworks. We found positive relationships between the police and YOTs, with both committed to diverting young people from the formal criminal justice system.

We were impressed that out-of-court disposal decision making was usually undertaken jointly between the police and the YOT, and often in a decision-making panel. On some panels, community volunteers provided a degree of independent challenge, external scrutiny and public reassurance. Panels that we observed took their roles extremely seriously. However, the voice of the child was often not heard effectively in the final decision-making process.

The processes leading up to decisions were often unclear. Assessment and planning were not always of the quality needed and did not always adequately reflect the voice of the child. YOTs were not always using suitable assessment tools. The majority found the guidance on the YJB approved Asset Plus assessment and planning framework confusing and unhelpful. The assessment and planning processes sometimes gave insufficient attention to the risk of harm to victims and others or the safety and wellbeing of the child, due partly to shortcomings in the assessment tools used.

While the process was often unclear, we found YOTs generally did the right things with children once they had the opportunity to start work with them. Obvious signs of progress were found in many of the cases we inspected. There was often a

substantial time lag between the date of the offence and referral to the YOT, when to be most effective, out-of-court disposals should closely follow commission of the offence.

The engagement of young people in interventions varied considerably. YOTs that focused on meeting children and assessing them in advance of the disposal decision achieved much greater engagement, since they had had an early opportunity to begin motivational work with them. The children involved were, without exception, positive in their praise of YOT work. Parents valued the support that their children had received, and the positive difference that work with the YOT had made. Victims who were engaged were equally positive, but not all took part. We found those YOTs who were more committed to involving the victim were also better at achieving their involvement.

We saw some positive examples of restorative work; achieved despite the challenging timescales that apply to out-of-court work.

The police have the power, when a YC or YCC is given to a child, to obtain fingerprints and biometric data. Use of this power is strongly recommended in national guidance. We found, however, that there were inconsistencies in practice, with some not exercising this power.

Effectiveness

Out-of-court disposals are seen as an effective way of preventing the entry of children into the formal criminal justice system, but there is no clear evidence to show overall how effective they are in achieving this and diverting children from crime, and to confirm whether this is indeed the case. There is no systematic national monitoring of the number of community resolutions used, nor how many children go on to receive further disposals or convictions following receipt of a CR. CRs are a key component of out-of-court work. In our inspection, they formed 39% of the inspection sample of cases that had been referred to the YOT for assessment or advice. This reflected the balance of out-of-court workload in those YOTs, which varies considerably between areas. There was little consistent monitoring of the quality and effectiveness of out-of-court disposal work locally.

There is convincing evidence worldwide that most children who offend will stop offending by their early twenties.[14] Long-term data for first-time entrants[15] suggests that the gamut of work done by YOTs to divert children from the criminal justice system is effective overall, as the number has fallen steadily for many years, both before implementation of the current out-of-court disposal framework and during the previous approach. There is also strong recent evidence of the importance of people who have offended developing a non-offending view of themselves, for them to stop offending[16]. We can, therefore, assume that the focus on the right outcomes for the child will reduce their likelihood of reoffending

Our judgements, from the cases that we inspected, indicated that short-term reoffending rates following a community resolution that involved YOT intervention were lower than those that follow a caution or conditional caution – and both were lower than reoffending following a conviction.

14 For example: Moffitt (1993) and Sampson & Laub (1993)

15 A first-time entrant is a child who has received their first caution, conditional caution or conviction.

16 For example: Maruna (2001)

Use and implications

We found many children and practitioners unaware that the details of any out-of-court disposal – especially CRs, which are not recorded on the PNC – can be disclosed on an enhanced DBS check under certain conditions. We recognise that there are strong reasons why information needs to be retained to support the proper functions of the police and prosecution services. The current situation whereby children may be unclear as to whether to disclose receipt of a disposal is not, however, consistent with the objective of diverting children from the criminal justice system, and making sure that they have the best opportunity for positive outcomes in their lives.

Recommendations

The Ministry of Justice and the Youth Justice Board should:

- Include community resolutions in criminal justice system reoffending statistics, and evaluate their effectiveness in reducing offending and improving outcomes for children.

The Youth Justice Board should:

- Make sure that guidance on use of Asset Plus or other assessment frameworks meets the needs of local areas when seeking to undertake out-of-court disposal work.

Youth offending team management boards should:

- Make sure that out-of-court disposal work is evaluated, is of good quality and is effective.

Youth offending teams and chief constables should:

- Make sure that the requirements of youth conditional cautions are meaningful to children, and describe the desired outcomes and how these will be achieved.
- Make sure that all victims have a fully informed and effective opportunity to have their views heard, and to receive an appropriate restorative intervention.
- Make sure that children understand the implications of receiving an out-of-court disposal before they are asked to accept it.

Youth offending teams should:

- Make sure that assessment and planning are of good quality, and take account of the child's views on what may help them to avoid offending.
- Make sure that decision making is informed by assessment of the child.
- Give specific attention to victims and the protection of the public in the assessment, planning and delivery of out-of-court disposal work.

Chief constables should:

- Make sure that referrals to YOTs are sufficiently timely to meet the needs of victims for speedy justice and achieve the objectives of out-of-court disposals; and make the YOT aware of all community resolutions given by the police.
- Make sure that they have clear and consistently applied policies for the gathering of fingerprints and other biometric information in youth caution and conditional caution cases.

1. Introduction

1.1. Why this thematic?

Out-of-court disposals make up an increasingly high proportion of the work of youth offending teams (YOTs). Estimates from YOTs for the proportion of out-of-court disposals in their annual throughput of children and young people range from about 30% to 80%, with around 50% typically quoted. The long-term reduction in first-time children entrants to the youth justice system, the reduction in post-court cases held by many YOTs, and reoffending data for children who have received a youth caution (YC) or youth conditional caution (YCC) indicate that this work is important to achieving the main objective of the youth justice system – prevention of offending by children.

Most post-court work by YOTs is governed by substantial legislative, statutory and other guidance. There is considerably less guidance in the case of out-of-court disposals. In many respects this is appropriate, as their organisation and delivery are determined locally to be responsive to local offending patterns and priorities. This means, however, that there is little guidance about the principles of good practice for this work, little understanding of the quality of the work, and little awareness of the nature, range and quality of local provision.

In view of the importance of this work, HMI Probation will include out-of-court disposals in its next programme of performance inspections of youth offending work, commencing this year. This thematic inspection is both a substantive inspection and an important step to providing a clear message to the youth justice sector about what we consider to be sufficient practice.

1.2. Background

Work to divert children from offending has been part of the work of YOTs since their inception. They were required to contribute to work to prevent offending before children received a statutory criminal justice sanction. This was often delivered through youth inclusion programmes (YIPs) or youth inclusion and support programmes (YISPs). These programmes targeted hotspots or individuals whose behaviour indicated they might go on to offend. YOT management boards had responsibility for oversight of this work. The initial inspection programme of youth offending work gave attention to the effectiveness of this work.

Over time, local authorities have had greater flexibility to integrate this work with the preventive or diversionary work of broader children's services, as well as responsibility for an increasing proportion of the funding. This led to a range of approaches to the prevention of offending. Of note was the 'Bureau' system developed in South Wales (see Glossary for explanation), which arose in large part from the Wales Government's commitment to the United Nations Convention on the Rights of the Child. A range of other approaches were also developed. During this time, the priorities for inspection of youth offending work focused on improving the quality of work where the child had been convicted and sentenced. We considered out-of-court disposal work in two thematic inspections, in 2010 and 2011.[17]

17 Joint Criminal Justice Inspectorates, *A Joint Inspection of Youth Crime Prevention*, September 2010 and Joint Criminal Justice Inspectorates, *Exercising Discretion: The Gateway to Justice,* June 2011.

Prior to the *Legal Aid Sentencing and Punishment of Offenders Act 2012* (LASPO), youth justice sanctions escalated from reprimands through to final warnings and on to court sentences. LASPO removed this automatic escalator, which meant that out-of-court disposals could be used whenever they were appropriate, irrespective of previous sanctions. Beyond the statutory options, guidance supporting LASPO implementation included a non-statutory framework. There was anecdotal evidence that out-of-court disposal work locally had often developed considerably beyond the minimum requirements of the LASPO framework, and so the collective understanding of what was acceptable or good practice had also developed. There has been no national evaluation of this work since LASPO and no development of core delivery principles that reflect the current nature of the work, to apply irrespective of the individual local delivery model. Recent substantive inspection activity has consisted of reference to local arrangements in some full joint inspections of youth offending work.

1.3. Aims and objectives

The first aim of this inspection was to develop a national understanding of the range and nature of current schemes. Then, to consider in a representative selection of local areas:

- how well the work was being delivered, including the effectiveness of supporting management and governance arrangements
- its effectiveness in meeting the objectives of the youth justice system
- the themes that underpin good quality work.

The aim was to identify good practice, make recommendations for improvements where specifically required and to develop a set of standards for the delivery of out-of-court disposal work to apply to future performance inspection of youth offending work.

For this inspection, the term 'out-of-court disposal' covered cases where a child had been processed by the police, acknowledged their responsibility for specific offending-related behaviour, but had not been charged, bailed or released under investigation, or had formal action taken against them. The premise that 'an offence has been committed, the offender identified and they acknowledged responsibility' proved to be an appropriate specification, and will be used in future performance inspection.

For management purposes, YOTs are often located within children's services or, in Wales, social services departments. There should be a close relationship between the YOT and children's services. Some YOTs may also become involved in cases that have arisen through other local authority referrals, rather than a criminal justice route. This work, even where undertaken locally by YOTs, falls within the remit of other children's services inspection programmes. Such cases are only relevant to this inspection if they may also have arisen through a criminal justice route.

1.4. Report outline

No	Chapter	Content
2	Key indicators of good out-of-court disposal work	Summary of the key indicators of good out-of-court disposal work.
3	Governance and leadership	The contribution of governance and management arrangements to out-of-court disposal work.
4	Police contribution to out-of-court disposal work by YOTS	The quality of communications and joint working between the police and YOTs in out-of-court disposal work.
5	Decision-making processes	The out-of-court disposal schemes in the seven inspection fieldwork areas, and assessment of the decision-making systems.
6	Case management practice	Findings from the inspection of case management and related work in YOTs.
7	Out-of-court disposal provision in England and Wales	Findings from a survey by HMI Probation about the range of out-of-court disposal provision in YOTs in England and Wales.

2. Key indicators of good out-of-court disposal work

An important objective of this inspection was to identify themes of good practice; to inform future inspection programmes and provide guidance to local areas on priorities for developing this work. Therefore, before describing our detailed findings, we summarise the key themes that indicate positive work, that we identified. We encourage YOTs, and their management boards, to evaluate how well they meet these indicators, and to develop improvement plans in response to that.

2.1. Indicators of good out-of-court disposal work

- Commitment from the local police force to dealing with children at the lowest appropriate level, and to diverting them from formal involvement in the criminal justice system at the earliest appropriate opportunity.
- Good strategic and operational relationships, and partnership working, between the police and the YOT.
- Timely referrals from the police for out-of-court disposal work, and timely decision making.
- Commitment to diversionary and preventative work by the local authority and YOT partnership, including leadership within the YOT management board.
- Clear strategic and operational links between out-of-court disposal work and other (non-criminal justice) local diversionary and prevention work with children.
- Application of out-of-court disposal work beyond the minimum statutory requirements.
- Services from the YOT and its partners, including education and health services, made fully available to out-of-court disposal cases as well as to post-court cases.
- Joint decision making, for all but initial police-led community resolutions, that considers both offence circumstances and victim wishes, and gives priority to what is most likely to cause the child to desist from offending.
- The child, and their parent/carer, is engaged with the YOT in advance of the disposal decision, to motivate them, understand their perspective and increase the likelihood of positive engagement with them.
- Assessment and planning are of good quality. They fully engage with and listen to the voice of the child, and are timely and proportionate to the principles of out-of-court disposals.
- YOTs achieve contact with a high proportion of victims, offer realistic restorative justice opportunities, and ensure the voice of the victim is heard in decision making.
- Planning and delivery focuses on services and intervention work most likely to lead to desistance in the individual case, rather than automatically focus on criminogenic factors.
- Engagement takes place with the whole family, as appropriate, and recognises the importance of parents/carers to supporting future desistance.
- Attention is given to diversity and disproportionality factors at an early stage.
- Specific attention is given to protecting the child and others from harm.
- Children are linked in to other services as appropriate, including through good exit planning.
- Scrutiny arrangements fully recognise the differences between adult and children's work.
- Managers and management boards understand how well out-of-court diversion is working, and how well it meets local needs. They ensure its quality, and develop and deliver improvement plans where required.

3. Governance and leadership

This chapter examines the quality of strategic and operational managements arrangements, along with work to ensure the quality and effectiveness of out-of-court disposals.

3.1. Strategic leadership and partnerships

The attention given to out-of-court disposal work in local strategic management arrangements was consistently good. Partnership arrangements were well established at both strategic and operational levels. Out-of-court disposal work had good strategic and operational links with local early help, prevention or diversionary arrangements with children at risk of poor outcomes.

Senior leaders who we met, without exception, considered it to be right to divert children from formal involvement in the criminal justice system wherever that was possible and appropriate. They said the focus should be on achieving the right outcome for the child, since that was also what was most likely to make them less likely to offend.

Good practice example - integration with antisocial behaviour work.
Jack was part of a group causing antisocial behaviour. Intervening with the group was a priority for local partners, but they had proved difficult to engage. Jack received a community resolution for being abusive to a youth worker. His community resolution provided a link into the group, since the YOT now had his contact details and he was a leader in the group. The community resolution was used as an opportunity to engage Jack with the work of the YOT, and to get him to motivate the rest of the group to do so. This was successful. A comprehensive seven-session package of interventions was developed and delivered to the group, designed specifically to address their issues. The group became so committed to working with the YOT that if one member did not turn up, the others would track them down and make sure they joined in. Jack has not been involved in antisocial behaviour since. The police reported that "the whole group have gone off our radar".

All YOT management boards took a lead locally in oversight of out-of-court disposal work, including examination of data on first-time entrants to the youth justice system, and gave sufficient attention to this work within their planning arrangements.

There was no differentiation between post-court and out-of-court work in the involvement of partners. In County Durham, for example, we found strong commitment from partners at all levels to work together to minimise the likelihood of children entering or continuing within the youth justice system.

Relationships between the police and YOTs are critical to out-of-court work. We found these were consistently strong. One YOT commented that the need to build and maintain a positive working relationship with the police for out-of-court work had led to improved joint working with the police generally.

There were senior police representatives on each YOT management board, with the appropriate authority to influence both force policy and procedures for youth justice. We also saw a commitment to youth justice led by chief officers in every police force – this permeated throughout their organisations, as evidenced during our interviews with police officers.

YOTs increasingly recognised Police and Crime Commissioners (PCCs) as an important strategic and funding partner for out-of-court disposal work. All the PCCs, or their representatives, who we spoke to recognised how out-of-court disposal work was important to and contributed to their police and crime plans.

The success of out-of-court disposals locally and nationally shows the effectiveness of the youth justice system in achieving its objective to prevent offending. We did not, however, find much evidence that this was used as an opportunity to build wider public understanding of and confidence in this work. This was a missed opportunity. Some PCCs recognised that this was an area where they could make a positive contribution, through their regular engagement activities with public forums.

3.2. Operational management

We found that staff delivering out-of-court disposals were committed, knowledgeable and well trained. This applied whether they were devoted solely to out-of-court work or held a generic pre- and post-court caseload. Where staff held generic caseloads, however, that often led to tensions in balancing the need for timely out-of-court work against the priorities of dealing with high-risk issues in post-court cases.

Every police force area had readily available guidance on out-of-court disposals for officers on their intranet sites, and there had been training and briefings to frontline staff.

Case managers spoke positively about the skills of their immediate line managers, frequently describing them as "supportive" and "knowledgeable".

YOTs had a suitable range of interventions to meet the needs of almost all the cases that we inspected. It was, however, often unclear if there had been specific work to ensure that interventions matched local needs and kept pace with local offending patterns.

There was universal acceptance of the need to achieve greater involvement of victims in this work. While some areas were effective at making contact with victims, generally not enough attention was given to improving this. There was also not always enough attention given to monitoring victim satisfaction, to improve services. Similarly, we found only limited evidence that child or parent/carer views were monitored to help improve services.

Some YOTs wanted to extend the range of out-of-court cases to which they contributed, but were concerned that they did not have sufficient resources. This was exacerbated by the impact of the Asset Plus assessment process. Others were concerned that the current requirements, as they understood them, made it difficult to manage their current caseload as well as they would wish.

3.3. Quality assurance and effectiveness

Attention to the effectiveness and quality of out-of-court disposal work at strategic level was sometimes limited to examination of national indicator, throughput or demographic data. It was sometimes presumed that a reduction in first-time entrants and court sentences indicated the success of out-of-court disposal work. This is not necessarily the case, since many other factors may also influence that data. Reliance on these national indicators and other high-level data does not, therefore, of itself validate the effectiveness of local work, nor make sure that it can be sustained or improved where needed. To achieve these there needs to be evaluation of the work and an understanding of the local factors that influence offending. Neither was specific attention given to the effectiveness of community resolutions delivered directly by the police.

There were some positive examples of the development of local outcome evidence, however. Southampton had identified that the reoffending rate following a community resolution with interventions was substantially less than for other criminal justice disposals. County Durham reported that the reoffending rate there following a community resolution in which the YOT had become involved (known locally as a pre-caution disposal) was an impressively low 16%.

Good practice examples – use of external evaluation. *Surrey commissioned external evaluation of its youth restorative intervention, and had refreshed this in 2017. The overall success of the scheme in Surrey was indicated by consistently small numbers of first-time entrants to the youth justice system, combined with steadily reducing numbers of children receiving any criminal justice-related disposal (including both sentences of the court and out-of-court disposals). The evaluations have, however, helped Surrey to understand where it needs to review and improve its scheme further, and where it may be less effective; to maintain its success.*

Northamptonshire recently worked with a local university to evaluate its work, with a view to expanding its reach. It had also previously worked with the university and its local children's services to match offending data with other information, and hence demonstrate the risk factors that specifically applied in Northamptonshire. This was used to inform development of the Northamptonshire out-of-court disposals model.

Learning from cases where children have reoffended

We expected to find routine processes to review and learn from out-of-court disposal cases where the child had gone on to reoffend, to assist YOTs to learn lessons and improve services. We found little evidence of this.

Oversight by line managers

We often found an ethos of seeking to provide a high level of support to the child and their family. That should not, however, be at the expense of giving specific attention to risk of harm, safety and wellbeing, or to addressing offending-related behaviour. Line managers have a vital role to play in making sure that that delicate balance is struck well. They did not always give enough attention to risk of harm, and safety and wellbeing work, and there were not always clear processes for oversight of this, as we see for post-court work.

In most cases, manager oversight was limited to discussion with the case manager in a subsequent supervision session. While this was sufficient in many cases, line managers need to target their oversight to ensure that it is timely and that the quality of work is assured – for example, where there are raised risk of harm, safety or wellbeing indicators, including children classed as in need or subject to a child protection plan, looked-after children or where there are serious offences.

Scrutiny panels

Area-wide oversight and accountability for the suitability of disposal decisions is provided by scrutiny panels, usually led by the police or the PCC and involving a range of partners, including the YOT. We saw evidence of scrutiny panels in each area. There was, however, no consistent approach to which cases were selected for consideration. In some areas, the cases selected were based on a theme (for example, an offence type), which often precluded cases involving children at all. Some scrutiny panels covered both adult and young offenders, diluting the time spent on issues affecting children.

The out-of-court disposal frameworks for children and adults are different; the youth justice system has specific objectives for prevention of offending and children receiving positive outcomes, and the factors influencing child and adult behaviour may be quite different. Therefore, the factors to be considered when making decisions can vary. Where child cases were only a minority of cases scrutinised by a combined panel, we were not confident that the differences in approach needed would always be fully understood. Leeds (West Yorkshire Police) operated separate scrutiny panels, and some other areas were considering separating adult and youth into separate panels, with slightly different membership. We consider that all areas should consider this approach.

3.4. Conclusions and implications

The commitment and leadership of YOTs and partners to out-of-court work in local areas were strong. There were effective links with other diversionary or early-help work. Relationships with the police were strong. PCCs were taking an increasingly important strategic and funding role in this work.

There were some examples of positive reoffending outcomes achieved following pre-caution out-of-court disposals. More attention was needed, however, to make sure that work was as good and effective as it could be, at both a strategic and operational level. Local scrutiny arrangements would also benefit from an increased recognition of the specific factors that apply to out-of-court disposal work with children.

4. Police contribution to out-of-court disposal work by YOTs

The police are a critical partner influencing the opportunity for the YOT to make a timely and effective contribution to the prevention of offending by children eligible to receive an out-of-court disposal. Overall, we found that this was positive, although there were also some aspects that should be improved. In this chapter, we examine aspects of their work most directly related to ensuring effective joint working with the YOT.

4.1. Previous inspection findings

Two previous inspections have touched on the police role in this work.

The conclusions and recommendations in *Facing up to offending*, a joint inspection of restorative justice,[18] included:

- As informal resolutions are usually conducted outside of custody and without the usual protection of the code of practice covering the questioning and treatment of detainees, it is equally important that the police ensure that the standard of decision making is of a high standard to maintain public confidence.
- To improve the quality of decision making, and increase accountability, police forces should ensure that quality assurance processes for community resolutions are sufficiently rigorous and include analyses of victims' views, and consultation and liaison with criminal justice partners (including the Crown Prosecution Service, YOTs and probation trusts).
- To promote victim engagement effectively in youth offender panels, youth offending teams should ensure that: timeliness, particularly of the initial contact, meets the needs of the victim; communication with victims clearly focuses on the potential benefits to them; and victims are therefore able to make a fully informed decision.

The thematic inspection *Crime recording – making the victim count*[19] recommended that out-of-court disposals 'should be used appropriately by police and that the views of the victim and the wider community should be properly considered'.

Current practice with respect to these recommendations is discussed further in this chapter and elsewhere in this report, but some areas of practice, especially in relation to victims, had not seen sufficient improvement.

4.2. Police contribution to out-of-court disposal work

Out-of-court disposals national guidance – there are three main sources of national guidance for police officers:

- The College of Policing Authorised Professional Practice (APP)[20] provides officers with guidance on out-of-court disposals, including community resolutions, that is applicable to both adult and youth offenders;
- The Youth Justice Board document – *Youth out-of-court disposals: guide for police and youth offending services;*[21] and
- The Association of Chief Police Officers (ACPO) *Guidelines on the use of Community Resolutions including Restorative Justice*.[22]

18 Joint Criminal Justice Inspectorates, *Facing up to offending: Use of restorative justice in the criminal justice system,* September 2012

19 Joint Criminal Justice Inspectorates, *Crime recording: making the victim count*, November 2014

20 *Prosecution and Case Management* provides guidance to police on possible justice outcomes following investigations. It is available from www.app.college.police.uk

21 *Youth Out-of-Court Disposals Guide for Police and Youth Offending Services.* Youth Justice Board for England and Wales, 2013.

22 *Guidelines on the use of Community Resolutions (CR) including Restorative Justice (RJ).* ACPO 2014.

Both the College of Policing and the Youth Justice Board guidance make it clear that before a community resolution can be considered there should be an admission of guilt by the alleged offender. However, the ACPO guidance states that the offender should 'accept responsibility' for the offence. This discrepancy is partly to take into account that community resolutions are often dealt with by police officers away from a police station and that a swift resolution to the incident is often preferable, and to acknowledge the often low-level nature of the offences concerned. Incidents such as antisocial behaviour, which do not in themselves amount to an offence, can also be dealt with by way of community resolution. This difference in terminology is unhelpful and should be corrected.

For community resolutions, children were often asked to sign a form where a box had been ticked alongside words signifying that responsibility for the offence had been accepted. We found that an admission of responsibility was present in most cases that we inspected. There were, however, a very small number of cases in which it was not clear that an admission of responsibility had been made. This is potentially a serious issue. It is compounded by many children being unaware of the implications of accepting a community resolution on future DBS checks, which is discussed elsewhere in this report.

The desire to deal quickly with allegations of offending should not be at the expense of the right of individuals to make properly informed choices, particularly when the child is first spoken to by police and where adults may not be present.

When the police consider an out-of-court disposal to be appropriate, the APP requires the investigating officer and their supervisor to consider any aggravating factors that apply to the offence by using the 'youth offender case disposal gravity factor matrix' drawn up by the Association of Chief Officers (ACPO)[23] (replaced by the National Police Chiefs' Council (NPCC) in 2015). This decision making also takes into account any mitigating circumstances relating to the offender, the seriousness of the offence and the views of the victim.

Police use of community resolutions

A community resolution can be issued by a police officer away from a police station, without prior reference to the YOT. In some cases, we found that more than one community resolution had been issued to the same child without referral to the YOT. For a second or subsequent community resolution to be issued by an officer, all forces inspected required a supervisor to authorise this, along with a rationale for their decision. In the cases that we examined where more than one community resolution had been issued by the police, the decisions were appropriate. We saw, however, little evidence of sampling by forces to quality assure the initial decision making by frontline officers.

In one area, officers could issue only one community resolution before the case was then referred to the YOT for involvement in the decision making. At this point, there was no bar to the number of community resolutions since they were subject to the additional assessment and oversight of a decision-making panel. This was an effective quality assurance process.

23 The youth offender case disposal gravity factor system was originally drawn up by ACPO in consultation with the Crown Prosecution Service, Home Office, Youth Justice Board and officials of the Joint Youth Justice Unit, and updated following LASPO 2012.

Notification of community resolutions to the YOT

We found in some areas that the police automatically notified the YOT, or multi-agency safeguarding hub (MASH), whenever a community resolution had been delivered. The YOT could then consider whether to offer services to the child. This was good practice as it gave the YOT the opportunity to consider any familial or other issues that may have contributed to the offending, providing an early opportunity to prevent an escalation in behaviour and repeat offending. Where this did not happen, it was an important missed opportunity to work in partnership to reduce reoffending by children.

Once offending has repeated, it is especially important that the YOT can address this before it becomes entrenched. In one area, we found evidence that some children had received up to four community resolutions before a referral was made to the YOT. The police and local partners should have systems to inform the YOT of all community resolutions, so it can consider offering services where they could be beneficial.

Youth caution/conditional caution decision making

Police decision makers have the authority to make charging decisions for some types of crimes without referring to the Crown Prosecution Service.[24] It was positive that every police force inspected referred cases of children to the YOT for advice before deciding on whether to give a youth caution/youth conditional caution.

In some areas, the referral also included the opportunity for pre-charge consideration by the YOT in all but the most serious offences. Where this happened, it meant that the decision could be informed by relevant information about the child, and so enable other children to be diverted, where appropriate, away from the criminal justice system.

Victim engagement – The police undertake initial contact with the victim during their investigations. Once it is decided to consider an out-of-court disposal that will involve referral to the YOT, the police should inform the victim of the role of the YOT and seek consent to pass their details on to the YOT. The YOT then undertakes any continuing contact with the victim, including as it considers and then delivers restorative work. Victims that we met had not always clearly understood, from the police, what the purpose of passing their information to the YOT was.

It was also unclear whether the opportunity had been taken, when informing the victim about this, to encourage them to respond positively to the YOT. Where victims did not engage, it was more difficult for the YOT to provide services to them. It is important that the police responsible for this work understand the role of the YOT and motivate victims to engage with it.

The way that the YOT communicated with victims varied in the police forces we visited. In some, the YOT victim officers actively sought to engage victims in a variety of ways to discuss available interventions and seek their views on participating in restorative justice. Where YOTs took the initiative this was good practice, and made a

24 Crown Prosecution Service, *Director's Guidance on Charging, 5th Edition*, May 2013.

substantial difference to the likelihood that the victim wanted to be involved in some way (see Chapter 5).
In one YOT, however, victims received one letter only, with no follow-up communication. If there was no response, there was an assumption that the victim did not wish to participate any further. We do not know how common this practice is (although it replicates practice found in our inspection of referral orders) but in our view, it showed insufficient commitment to ensuring that the voice of the victim was heard and that they could make a fully informed decision about their involvement. These issues are discussed further in our inspection *Referral orders – do they achieve their potential?*[25], where we stress the importance of achieving personal spoken contact with the victim.

Joint decision making – In each area we visited there was a joint decision-making panel or process made up of police, YOT and sometimes partner staff and, on occasion, an independent member of the community. This covered all out-of-court disposal cases referred to the YOT for advice. As discussed elsewhere, we considered the use of a formal decision-making panel to be good practice. (See Chapter 5.) Panel members had the opportunity to contribute to the decision on the most appropriate outcome for the child, while generally taking into account the views and needs of the victim.

Reality testing with police – In each force area, we visited the local neighbourhood and police response teams to test their understanding of out-of-court disposals, and the processes they should follow. We also visited the local custody suite used for children, with the same intent.
All the officers and staff we spoke to understood the objectives and were aware of the relevant protocol or force policy for referring children to the YOT, when they considered that an initial street community resolution was not appropriate. For children taken into police custody, it was positive that custody sergeants also understood this process, and were aware of the need to refer children to the YOT before deciding on the outcome in all but the most serious of cases.

Delays in submission of notifications to the YOT– One of the key principles underpinning out-of-court disposals is that they should be dealt with quickly following the offence. This is to provide a speedy outcome for the victim, and to deliver any interventions while the offending behaviour is still fresh in the mind of the child. It is important that children are assisted in moving on and the need for change reinforced as quickly as possible after their offending behaviour.

Where the YOT was expected to undertake an assessment, or contribute to decision making, we considered it reasonable for them to receive the referral within five working days of the child being interviewed and accepting their responsibility. This benchmark was met in only just over two-fifths of cases. Some cases took several months to reach the YOT from the date of the offence. Discovering the reasons for delay was outside the scope of this inspection, and in many they will be linked to the investigative process. The delays increase the risks that the victim will disengage before the case is dealt with, that the child will reoffend due to the delay in intervention work with them, and that any subsequent work with the child to reduce the likelihood of offending will be less effective, as their attitudes and maturity could have changed considerably in the meantime.

25 HM Inspectorate of Probation, *Referral orders - do they achieve their potential?,* July 2016

Delivery of cautions and conditional cautions – Responsibility for delivery of the caution varied. In some areas, it was delivered by a single designated person or by the YOT police officer (see Glossary). In others, it was delivered in the neighbourhood where the offence took place, but sometimes this caused communication difficulties as the YOT was not always aware of when it had been delivered or given a copy of the agreed conditional caution. When the caution was delivered by a YOT police officer, this was a valuable opportunity for it to be linked to motivation to engage with the work of the YOT.

Good practice example – joint work to improve motivation. *Colin recieved a caution for possession of cannabis. While he admitted his guilt, he did not consider that it should have be treated as an offence, and would not engage with the YOT. Realising that he had not grasped the implications of the caution, the case manager briefed the police officer about his attitude, so that she was prepared and could deal with it. As a result, he accepted the caution and undertook some work with the YOT on the effects of cannabis use.*

Fingerprints and DNA – The Police and Criminal Evidence Act 1984 (PACE)[26] as amended by the Crime and Security Act 2010[27] allows police to take fingerprints and DNA (biometric data) of a child when they receive a youth caution or conditional caution for a recordable offence. Where the child had received a caution or conditional caution without having been arrested during the investigation, we found that fingerprints and DNA samples were not always taken. There were sometimes insufficient processes to make sure that this was considered. In such cases, police forces cannot then compare the biometric data against that gathered from crime scenes, and thus opportunities to solve crime are missed and there is insufficient protection against possible use of aliases to escape justice. This may in turn mean that the PNC offending record of the child is incomplete.

4.3. Conclusions and implications

Overall, we found the police working well to deliver and support out-of-court disposals, although more consideration could be given to the involvement of victims by both the police and YOT.

This work was understood well by the police staff most directly involved in considering its suitability. Some cases were taking a long time to be referred to YOTs, however, and the reasons were not always clear. What is more, YOTs were not always aware of disposals given by the police and so not always able to consider whether intervention may be needed.

Systems for making sure that fingerprints and DNA were taken in YC and YCC cases were not effective.

26 Police and Criminal Evidence Act 1984 Section 61 (6) paragraph 3 of schedule 2A permits a constable to require a person to attend a police station for the purpose of taking fingerprints provided the power is exercised within two years of the date on which they were cautioned.

27 *Crime and Security Act 2010* Chapter 17.

5. Decision-making processesses

This chapter describes the different schemes for out-of court disposals that we visited and examines the effectivness of the decision-making arrangements that we found

5.1. Summary of the arrangements in the inspected areas

County Durham– The police may issue an initial community resolution. All other cases suitable for out-of-court disposal are referred to the YOT for a decision, and each case receives an assessment in advance of the disposal decision. Asset Plus (the YJB's assessment and planning framework used by YOTs) is used for children who have previously received a caution or are being recommended for a youth conditional caution (YCC). A local early help assessment, or offence analysis, is used for other cases. The disposal decision is made jointly by a YOT area manager and a YOT police officer, and the case manager attends to provide advice. The YOT worked to, and largely achieved, a target of ten working days from receipt of the referral from the police until the assessment was completed and the decision made.

Flintshire– In common with other YOTs in Wales, Flintshire had implemented the 'Bureau' (panel) system originally developed in Swansea. All cases where an out-of-court disposal is considered, other than those where an immediate community resolution was issued by a police officer, are referred to the YOT. The YOT case manager assesses the child and writes a report for the Bureau meeting. The panel consists of the YOT police officer and a YOT manager, with the recent addition of a community volunteer; the case manager does not attend. The panel reviews the report and makes its decision accordingly. The YOT police officer then makes arrangements with the child to deliver the disposal, which often happens the next day.

Leeds – The police may issue a community resolution for cases with an ACPO gravity score of 1 to 3 where this is considered to be the appropriate outcome, if this is the child's first offence or any previous community resolution is more than 12 months old. Otherwise, subject to the case being suitable for an out-of-court disposal, it is forwarded to the YOT for consideration. The YOT undertakes an assessment and contacts the victim for their views. Both the assessment and report for the panel are quality assured before they are completed.

The decision-making panel sits weekly and consists of a YOT area manager, a YOT seconded police officer and a community volunteer. A multi-systemic therapy (MST) specialist also attends to identify and advise on cases where parental factors indicate an MST input might be valuable. The panel makes all decisions, except in cases where the child has received a YCC in the previous 12 months, when the panel recommendation is submitted to a police inspector for confirmation. Following the decision, the case is allocated to an outcomes clinic for the following week, when the disposal is administered by a YOT police officer.

Northamptonshire– Cases that might be suitable for a YC or YCC, and some that might be suitable for a community resolution (CR), are referred to a joint YOT and police team for consideration. A triage process is undertaken, using information from the referral, together with current information from partners, police and previous YOT involvement. A locally validated rating scale, informed by analysis of approximately 2000 children, is used to indicate the level of need and whether a programme of support should be offered. Initial judgements about outcome are made by a police officer and a YOT representative. These are scrutinised and

confirmed by a team manager, including in further consultation with the police as appropriate. Cases where a programme of work is indicated, including all YCC cases, are allocated to a case manager, with an assessment undertaken in advance of delivery of the formal disposal. An intervention programme is offered, informed by the assessment, that may draw on the skills of staff from the YOT, police and external partners.

South Gloucestershire– Before March 2017, only cases with an offence gravity score of 3 or cases for second or subsequent cautions or conditional cautions were referred to the YOT. Following recognition by partners that many other cases could benefit from an intervention, since March 2017 all cases where an out-of-court disposal may be appropriate have been referred to the YOT, other than those where the police had already delivered a community resolution. An assessment is undertaken to inform the decision. The YOT, positively, aims for two assessment sessions with the child. The case manager produces a report for a panel meeting, which consists of one or more managers from the YOT plus a police sergeant who works closely with the YOT.

Southampton– Cases considered for an out-of-court disposal, other than where a community resolution has already been issued by the police, are referred to the YOT. The YOT police officer screens the cases and remits any that they consider to be suitable for a community resolution back to the investigating officer for action. For the remaining cases, information known about the child by the YOT, police and other partners is brought together to inform a report to the decision-making panel, which decides the disposal to be given. The panel consists of a police sergeant, a YOT manager, and representatives from the NHS Liaison and Diversion Service and local family services. The case manager does not attend. Following decision, the case is referred back to the investigating officer to deliver the disposal, and the YOT undertakes intervention work.

Surrey – Cases considered for charge or for an out-of-court disposal, where the child has made an admission, are referred to the Surrey joint decision-making panel (JDMP). The limited exceptions to this include initial community resolutions delivered by a police officer and indictable-only cases. The JDMP consists of two workers from Surrey family services (the YOT) and two police sergeants. The case manager may provide advice to inform the decision making through a written report.

A stated objective of the JDMP is to provide an alternative to the avoidable criminalisation of children wherever possible. The most common outcome is a youth restorative intervention, equivalent to a community resolution as it sits below a youth caution. Youth restorative intervention makes up 90% of out-of-court disposals in Surrey arising from the JDMP. Cases involving more serious offences, or where the victim does not agree with an out-of-court disposal, are referred to a police inspector for final decision, with a recommendation from JDMP. All other cases can be dealt with by the JDMP.

5.2. Decision making

Each area had joint decision-making arrangements for out-of-court disposal cases, other than for cases where an initial community resolution was issued directly by the police. This meant that the disposal decision could consider the YOT's views on the work most likely to contribute to the desistance of the child from further offending (not just on the details of the offence and the victim's wishes) – which is the main objective in the guidance on out-of-court disposal work. Five of the areas we visited normally completed their assessment in advance of the decision making, which was good practice.

In other cases, though, the assessments were not always in time to inform the disposal decision. Although not specifically required by guidance, the lack of assessment was an important missed opportunity. It also meant that information available to the decision makers about the child's acknowledgement of responsibility, understanding and likelihood of complying with voluntary interventions was limited to that obtained during police interview, without further exploration and analysis of these to understand any underlying attitudes, difficulties or motivation. This meant that the voice of the individual child was not always heard clearly to inform the decision that was made.

A formal decision-making panel was used to decide the disposal in 50 of the 112 cases that we inspected. We were impressed with how seriously panel members took their role. Two of the areas we visited included a community volunteer on their decision-making panel. It was sensible and positive to apply an independent voice to the decision making, thereby supporting public oversight and transparency of the process. Leeds considered that inclusion of a community volunteer on the panel brought a fresh and independent perspective, raising questions from an outside viewpoint, and adding transparency and better decisions.

Where a panel made the decision, this was always informed by a report produced by the YOT. A good quality report was critical to its ability to make an appropriate decision. In many cases, the report for the panel was similar to a pre-sentence report. Although many reports were good enough, we comment elsewhere about issues of risk of harm, safety and wellbeing, and the voice of the child being heard clearly. Their quality varied considerably. Some were limited to a summary of the key facts of the offence, any previous disposals and basic details of the child. In most but not all cases, other relevant police intelligence related to the child, their family or home environment was also included, providing a useful context for the child's behaviour – for example, if they lived in a home where there were frequent police call-outs related to domestic violence.

In just over half the cases that we inspected, the child had previously received at least one out-of-court disposal. In our view, the consideration of a further out-of-court disposal was appropriate where one had previously been given. In 10% of cases, the child had received a conviction for a different offence before the out-of-court disposal decision was made – for example, where the offence under consideration for the out-of-court disposal pre-dated their conviction. Here too we considered that the decision to consider an out-of-court disposal was appropriate. Positive use of the flexibility now available for use of out-of-court disposals was illustrated by the following example.

***Good practice example – use of community resolution following a previous custodial sentence**. Jerome was a 17-year-old boy who had received a short custodial sentence when he was much younger. He was then arrested for possession of a small amount of cannabis. At that time, Jerome had desisted from offending behaviour for over 18 months. He had no previous drug-related offences. Jerome received a community resolution and undertook a specific substance misuse intervention. He had not come to police notice subsequently. In this case, the use of a community resolution was an appropriate means of supporting continuing desistance by Jerome, through the justice system recognising how much his behaviour had moved on.*

There were, though, a few occasions where the disposal decision was effectively decided between a YOT police officer and a YOT manager before the panel met; this was not appropriate, and bypassed the role of the panel.

For decision making, whether in a panel or otherwise, to be a genuinely joint process, all members of the decision-making body should have sufficient seniority and delegated authority to interpret policy in the light of individual case circumstances, to make defensible decisions. We saw several positive examples where the joint decision-making process had done this appropriately. In other examples, however, agreement could not be achieved and the case was escalated, primarily because the police representative did not have the seniority or delegated authority needed. While there are circumstances, especially for more serious or complex cases, where the final disposal decision should be escalated for final confirmation, these should be the exceptions.

***Good practice example - use of a community resolution in a serious case**. Michael received a community resolution for possession of a bladed article (a small kitchen knife) on college grounds. Due to his severe learning difficulties, he had a very poor understanding of right or wrong and was vulnerable to being manipulated. In view of these difficulties, a strong and defensible case was made for why, despite its gravity, a community resolution was appropriate. This was an appropriate decision in this case.*

In many areas, the decision-making process was supported by a clear flowchart. In Leeds, for example, the flowchart helpfully started at the point a crime was committed, included the circumstances in which the police could deliver an immediate resolution, described the key assessment and victim contact, milestones and processes leading up to the decision-making panel, and covered the circumstances in which the panel would need to escalate a decision to a police inspector.

It is important, for transparency, oversight and defensibility, that the rationale for out-of-court disposal decisions is clearly recorded. In the cases we inspected, the quality of this was variable.

The forum that made the decision often also made recommendations for the interventions needed, including proposed conditions for youth conditional cautions. While there is value in doing this, it should normally only be done following a suitable assessment. Objectives should describe the change outcome that is required, and how that will be achieved. Objectives arising from the decision-making forum rarely met this standard, and so were not meaningful to a child. The importance of active involvement of the child in planning, rather than someone else simply deciding what is to be done to them, is discussed in Chapter 6. In YCC cases, the conditions are, in effect, the intervention plan that has been agreed with the child. It is, therefore, important that they meet the best standards of objective setting. The proposals were sufficiently clear in only 55% of YCC cases.

Where the YOT had the opportunity to contribute to decision making, it was clear that it made a positive contribution in most cases.

5.3. Conclusions and implications

We found that joint decision-making forums generally worked well. YOTs are making a positive contribution to them.

They could make better informed decisions and recommend interventions better if they were always in receipt of an assessment of the child, for example in a written report. Some panels would be more effective still if they made sure the objectives of any intervention are well thought through and expressed in ways meaningful to the child, and if they actively involve the child in planning.

6. Case management practice

This chapter considers case management practice in out-of-court disposal work undertaken by YOTs. The findings are drawn from 112 cases that were examined during the inspection fieldwork

6.1. Assessment

Case assessments were variable but generally of satisfactory quality. Each assessment framework had its own substantial strengths and yet each should be developed further. In practice, more attention was needed to the risk of harm, and assessments sometimes needed to be completed sooner.

Case managers generally demonstrated good assessment skills. They made sufficient effort to understand why the child had offended, and what may prevent this, in just under three-quarters of cases. The variability in the quality of assessments was mainly linked to the assessment frameworks used. There was, however, a more general tendency to restrict analysis of offending behaviour to the specific offence, with not enough attention to other related behaviours.

There was often not enough attention in assessments to the risk of harm to the individual child, nor to the risk of harm that they might pose to others. Some assessments, even some of those started before the decision-making forum's decision, took too long to complete, leaving decision making or planning ill-informed.

Local assessment frameworks

Each YOT that we visited adopted a slightly different approach to assessment. Most had developed their own short assessment tools. They considered these to be more proportionate than Asset Plus[28] to the needs of out-of-court disposals, where the process needed to be quick and the amount of intervention work to be delivered was often limited. While Asset Plus is designed to be scalable to individual case circumstances, it was not sufficiently so for many of the cases we inspected.

Each of the locally developed assessment frameworks that we saw had substantial strengths. Their scale was proportionate to the needs of the individual cases. However, none of the frameworks were yet sufficiently developed as standalone short assessments. Common shortcomings included: lack of a clear statement about any risk of harm to others or safety and wellbeing issues that applied in the case; lack of consideration to the links between behaviours and factors identified in other assessments with offending behaviour and desistance; and lack of a clear escalation process for cases where the initial assessment had indicated the need for a fuller assessment, such as through Asset Plus.

Some YOTs wanted to expand the range of cases where they made an assessment, but considered the Asset Plus assessment framework too onerous to justify the resource. Others were struggling to keep on top of the assessment work, primarily because of their commitment to Asset Plus.

In many cases, there was already much information about the child in other assessments or plans. In such cases, the focus should be on understanding and analysing the relevance of this information to offending behaviour and desistance, and linking to the other sources of information where appropriate. Assessment tools should be configurable locally to achieve this. Effort spent pulling all this information into the YOT assessment framework was sometimes not needed, since most of these children will have no further involvement with the YOT following the current out-of-court disposal.

28 Asset Plus is the standard assessment and planning framework developed by the YJB for use by YOTs

An Asset Plus assessment had been completed in over a quarter of the cases we inspected. In most, these had been done well. Staff who had completed Asset Plus were usually also experienced in doing this for post-court work, and understood the framework well. They also considered that it was too time-consuming for the nature and volume of much out-of-court disposal work.

It seems reasonable to use a comprehensive assessment framework once there are indications that behaviours are entrenched, involvement with the criminal justice system is becoming more frequent or where complexities have been identified. Most out-of-court disposal cases, particularly those considered for non-statutory disposals such as community resolutions, do not often reach that threshold.

Asset Plus guidance

Current YJB guidance can be read to allow the flexibility in the use of assessment tools that is required, since the precise circumstances in which an Asset Plus assessment is mandated do not exist until the disposal decision has been made, other than for youth conditional cautions (YCCs). We understood, however, why some YOTs and their management boards felt uncomfortable with applying this interpretation because they were concerned that not using the approved assessment framework might affect the level of grant funding that they received.

In our view, each YOT that used a local assessment tool had sound and defensible reasons for so doing.

Diversity

There was good attention to addressing diversity factors during assessment. We were concerned, however, about a few occasions where there had been insufficient consideration to matching the case manager to the child. When vulnerable young girls were allocated to male case managers, this sometimes could have made them less willing to be open about sensitive difficulties in their lives.

Impact of timely assessments

Where assessment was undertaken before the disposal decision was made and had involved a face-to-face meeting between the assessor and child, this increased the likelihood of engagement with interventions, and meant that disposal decisions could take account of the assessed likelihood of the child engaging voluntary with work to support their desistance from offending.

YOTs that achieved early assessment did so through efficient administrative processes for making appointments, which were usually through a home visit. One or more home visits were used to inform the assessment in 86% of cases, which is compelling evidence that this important contribution to understanding the case can be achieved, even when working to very short timescales. The voluntary nature of many out-of-court disposals meant that achieving this early engagement was particularly valuable.

Reviews

More attention was often needed to reviewing the assessment, including once the YOT intervention had ended, so that information on progress and engagement would be available if the child became known to the YOT again in the future.

Good practice examples - dealing with knife possession. *In Leeds, Zak, an 11-year-old boy, had received a conditional caution for possession of a knife. The knife possession was addressed directly in the interventions with him. The case manager realised, however, that Zak's offending was linked to him feeling unsafe as a victim of bullying. The case manager therefore worked with Zak's mother to develop a safety plan, and referred him to a support group that helped him build self-esteem and more appropriate coping strategies. There was persuasive evidence that Zak has responded positively to this work, and that his likelihood of further offending had reduced.*

In Northamptonshire, Lee also received a conditional caution. As he did not understand the potential impact of carrying a knife, the case manager undertook a role play. He asked Lee to hold a pen and what he would do with it to attack him. He then repeated this with Lee holding a mug. This gave the case manager the opportunity to discuss how carrying a knife made it more likely to be used and would be more dangerous. It was a simple but effective way to make the discussion more real to Lee, who was later able to reflect on how it had helped him.

6.2. Planning

Planning was undertaken and interventions offered in almost all cases where this was required. This was proportionate to the nature of the out-of-court disposal in almost all cases, but the quality of planning was good enough in only half the cases that we inspected.

Sometimes, lip service had been paid to the principles of good planning with children, due to the short nature of an out-of-court disposal, even by people who would adopt a positive approach to planning on post-court cases. The planning that was recorded too often occurred in isolation from the child. Sometimes it was recorded as actions to be done to, or with, the child. It often did not describe the outcomes, or change, that was required. (See also section 6.5.)

Planning that was undertaken often took place outside the formal assessment and planning process, which did not comply with accepted norms of practice, including those increasingly found in post-court work.

Risk of harm, safety and wellbeing

We found sufficient planning to address risk of harm to others in only just over half of cases where this was required, and to address the safety and wellbeing of the child in under two-thirds of cases where required. The opportunity to deliver risk of harm-related interventions was limited in many out-of-court disposals, but should still have been considered. Similarly, if safety and wellbeing concerns have been identified there should be a plan to address these, which in out-of-court disposal cases may often be through referral to partner agencies for longer term work.

Plans should be meaningful to children

Few plans were meaningful to children or described the desired outcomes and how these would be achieved in language they were likely to understand. In YCC cases, the agreed conditions should also be the agreed intervention plan in that case, but they were rarely presented in a format that was meaningful to the child or helped them understand what they were seeking to achieve, rather than just processes they had to comply with.

Plans should focus on desistance

Where interventions are needed in out-of-court work they should focus on rehabilitation and reparation wherever appropriate, rather than be punitive, and so support desistance by the child. Not enough plans met this standard, with many too focused on the immediate factors that led to the offending behaviour rather than those that could contribute to desistance.

Integration with post court work

We inspected a few cases where the out-of-court disposal ran, appropriately, in parallel with a period of statutory supervision following a conviction in court for other offences. It was positive that planning in such cases was integrated with the statutory supervision planning.

Motivation to engage with the YOT

It was positive that, once the YOT had begun to engage with the child, motivational work to encourage them to work with the YOT was good. One case manager described his approach to planning as:

"you need to see them as a young person who has made a mistake and you need to work with them to identify how to help them avoid making that mistake again before they get a criminal record, rather than see them as an offender."

6.3. Delivery of work

Once YOTs had the opportunity for intervention work with children, it was generally good. It was often focused on approaches most likely to lead to desistance from offending and was tailored to the needs of individual children. This showed that case managers understood what needed to be done to help children to desist from offending, despite shortcomings in recorded planning.

There was enough good quality work to support desistance from offending in more than three-quarters of cases where this was delivered. Not enough children had, however, engaged with this work voluntarily. As we discuss elsewhere, when YOTs achieved high levels of child engagement this was not by chance alone.

The balance between work to prevent offending, manage risk of harm to others and address safety and wellbeing concerns was appropriate in the great majority of cases. There had been enough attention to addressing diversity or potential discriminatory factors in 90% of cases where work was undertaken.

In almost all the necessary cases, parents and carers had been involved well in the work, providing every chance that they continued to support the child well once the involvement of the YOT had ended.

Good practice example – persistence in maintaining contact. *In Leeds, Mizpah received a conditional caution for theft from the shop where she worked. Her mother lived abroad and was ill, and her family wanted Mizpah to return home to visit her mother. The case manager was aware of the potential risk associated with this, ensured that the validity of the situation was checked out, and that Mizpah was safeguarded. Mizpah was due to return to England in about two months. The case remained open while Mizpah was away and the case manager kept in contact with her by email to remind her of the need to comply with the YCC, and to motivate her to restart work on it as soon as she returned home.*

Interventions

All YOTs provided access for children on out-of-court disposals to the full range of interventions and services available for post-court cases, and some YOTs had also developed specific interventions. For example, County Durham had a short, child-friendly intervention to help children understand the consequences of continued offending behaviour. This was available on the caseworker laptops and was often delivered as part of the pre-disposal assessment work. This was an effective way of increasing the take-up of interventions and using the opportunity to motivate children. The child's engagement with the intervention could also be used to inform the decision on the most suitable outcome.

Other YOTs also had a range of creative interventions for out-of-court disposal work. For example, Northamptonshire used mental health diversion and South Gloucestershire had a cannabis diversion project, which were used as alternatives to a CR. They aimed to engage the child with the necessary services, without a criminal justice outcome being recorded.

In Leeds, comprehensive intervention packages were delivered within community resolutions, supported by the development of an agreed intervention plan with the child. While there needs to be care that the amount of work is proportionate to the expectations of a community resolution, the experience in Leeds and elsewhere shows that the voluntary nature of a community resolution is no bar to deliver the substantive work needed to reduce offending – if sufficient effort has been put into motivating the child to engage with it. Interventions in Leeds were often focused on building skills and resilience.

Involvement of YOT police officers

In many cases, seconded YOT police officers were also involved appropriately in the delivery of interventions, particularly those related to knife crime or other aspects of risk of harm to others, or where their involvement could support motivation of the child to engage with the interventions.

Good practice example – work in cases without a direct victim.
Surrey used a 'statement of regret and reflection' process in cases where there was no identifiable victim for a potential restorative intervention. This enabled the child to demonstrate their understanding of the impact and consequences of their behaviour.

Victims and restorative justice

The extent to which victims took the opportunity to receive services from the YOT varied considerably. We found clear parallels with the findings from our report on referral orders.[29] There we reported that victim involvement was not so much a response to the resources for victim work – with a lack of resources often cited as the reason for low take-up – but more to the commitment of YOTs and staff to ensuring that victims had a genuine and timely opportunity to decide whether they wanted to take up services, and did whatever was needed to facilitate that. Despite the short timescales for out-of-court disposal work, some YOTs still achieved good restorative interventions, including full restorative conferences. County Durham and Surrey were good examples of this. One child told us:

"I had one meeting with [the victim]. I did find it good. I did it more for his sake than mine. I didn't want him to be frightened."

29 HM Inspectorate of Probation, *Referral orders - do they achieve their potential*?, July 2016.

Good practice example – restorative justice with a corporate victim. *In Southampton, a girl received a conditional caution following damage to street furniture. The company that owned this did not want to meet her but did want to take part in mediation through the victim worker to help her understand the impact of her behaviour on the company and the wider community, and to receive her response. She responded positively; hearing the company perspective helped her. She developed a good understanding of the wider impact of her behaviour, realised she had been making bad choices about how she behaved, and expressed remorse for her behaviour. Her attitudes and behaviour had improved considerably. When asked what she could do to put things right, she said she would like to apologise. The company was willing to accept a letter, and said it was pleased to receive this and to hear how much progress she had made since the offence.*

Exit planning

Exit planning was good enough in four-fifths of the cases that we inspected. This is especially important in out-of-court disposal cases, as the opportunity for YOT involvement is often very brief, and therefore, where appropriate, children should be made aware of or referred to other services that could work with them in the longer term. In Surrey, the same case manager who worked with a child on a youth restorative intervention (equivalent to a community resolution) continued, where necessary, to work with them as a member of Surrey Family Service once that had finished. This was an important opportunity for continuity.

Good practice example – preparing opportunity for future emotional health work. *In Flintshire, Lucy received a youth conditional caution following theft from a supermarket. The case manager assessed that there were long-standing issues in her life that needed to be identified and addressed. Lucy had previously been involved with partner services but had not felt able to disclose her issues. The case manager recognised that it was unlikely that Lucy would be ready to deal with these during the period of the conditional caution. She therefore arranged, as part of the exit planning, for Lucy to be allocated to a worker outside the YOT who had specialist counselling skills, so that Lucy could continue work with her while she became ready to open up about her problems.*

6.4. Initial outcomes

YOTs and individual case managers who put emphasis on early engagement with children, and undertook early motivational work with them to take part in voluntary

interventions, achieved notably better assessment, and higher rates of voluntary involvement in the work. This was particularly the case where they met the child for an initial assessment in advance of the disposal decision being made, and with the intention of the assessment informing that decision.

Enough was done to keep the child safe in 91% of cases where specific actions were required, and there had been sufficient attention to health and wellbeing outcomes in 90% of cases where required. More could sometimes have been done, however, within the reasonable expectations of an out-of-court disposal, to manage the risk of harm to identifiable victims. There needed to be greater attention to victims during planning.

Once an intervention had been delivered, there was evidence that 57% of children receiving a caution were less likely to offend than they had been beforehand. This was also the case for four-fifths of those who received a community resolution that had included an intervention – an impressive figure considering how short many of the interventions were. Both figures were better than we often find in post-court work.

We also assessed whether all that could reasonably have been achieved with the child within the boundaries of an out-of-court disposal had been achieved, even if it had not yet led to an identifiable reduction in their likelihood of offending. This was the case in an impressive 79% of community resolution cases, and two-thirds of caution cases, where we could make a judgement. Only 5% of children in the cases that we inspected had received a further out-of-court disposal, or a conviction, since the start of the disposal being inspected.

Good practice example – successfully addressing educational difficulties - *Amy received a YCC for theft, and had previous similar offences. She came from a Traveller background. She had disengaged from college and had lost her place. While working with Amy, the case manager recognised that she no longer wanted to offend and had ambitions to become a hairdresser. The case manager worked with Amy's parents to help them acknowledge her ambition and support Amy, worked with the Traveller support service for help in re-engaging Amy into college, and met the college to find a way forward. Following these efforts, the college not only accepted Amy back but also provided her with extra lessons and support to help her catch up. Amy was then accepted on to the level 2 course and was fully engaged with her education. There was no evidence of further offending.*

There was good attention to compliance with the conditions of YCCs, with children being appropriately held to account for their adherence to these. We found that 88% of children complied, at least substantially, with the conditions of the YCC. This, and the other positive outcomes we describe in this chapter, indicate the good understanding and engagement skills of most case managers who we met.

Good practice example – improving a child's understanding - *In South Gloucestershire, Chris had received a conditional caution for a sexual assault. The case manager was concerned about Chris's likely compliance, due to his embarrassment and depression about what had happened. She developed an individual contract of engagement with him that covered the same ground as the conditional caution documentation. It specifically addressed some of the areas they were most worried about – for example "I can't be bothered" was agreed as being unacceptable, and he agreed to "try my hardest" and "agree to ask questions". Chris was fully compliant and engaged positively with the case manager throughout the work. The young person's agreement was a good example of how easily formal documentation can be made meaningful to children.*

The case manager was also concerned about whether Chris could understand the concept of consent. She researched alternative ways to develop this and found a YouTube resource, Consent is like a cup of tea, https://www.youtube.com/watch?v=fGoWLWS4-kU . This responded directly to Chris's level of understanding and was effective in helping him improve this.

Children, and parents/carers, who we spoke to were, without exception, happy with the service that they had received from the YOT. Many said they found it valuable, often quoting the opportunity to understand the child's behaviours that they were otherwise not aware of. They gave some positive examples of the difference that work with the YOT had made to individual children.

6.5. Voice of the child

The voice of the child was not heard clearly enough in assessment, decision making or planning. The assessor sometimes undertook initial short assessments or screenings without having met the child. We found insufficient evidence that the child or their parent/carer had been specifically asked for and expressed their views on the causes of, and potential solutions to, their offending behaviour.

Similarly, with decision making, the only information about the child's level of acknowledgement and reasons for their behaviour was sometimes limited to that recorded in the police interview where responsibility was accepted; there was no subsequent work to test this and understand any underlying causes, or to test the likelihood of the child engaging with a voluntary intervention, to inform the disposal decision. Some recommendations for interventions were, therefore, made in decision-making forums without reference to assessment and the views of the child.

Recorded planning for what, if any, services or interventions would be delivered often took place without the child or their parent/carer having been asked their views on the child's concerns and aspirations, and most importantly on what would

be most likely to help the child avoid offending in the future. Therefore, the plan was sometimes presented to the child without them having been able to influence it. This was often compounded where the written plan was not sufficiently clear to the child about what outcome was sought, and how that would be achieved, sometimes instead listing the interventions or activities to be undertaken.

Child engagement in out-of-court disposal work (other than for YCCs) is voluntary and so not enforceable. It is therefore especially important that hearing and responding to children's views – expected practice in all areas of work with children – is given priority in these cases.

6.6. Implications of receiving an out-of-court disposal

We were not convinced that the implications of receiving an out-of-court disposal were always sufficiently understood by children and their parents/carers, to enable them to make a fully informed decision about the extent to which they acknowledged responsibility, and whether to accept the outcome.

For sentences of the court, legislation is clear about when these are spent. The extent to which out-of-court disposals are disclosable in the future is discretionary (although supported by statutory guidance). This applies to both those disposals – YCs and YCCs – which are recorded on the PNC; and to outcomes recorded as community resolutions, no formal action or similar, which are recorded on local police systems. Many of those staff and children we spoke to did not fully realise this, particularly for disposals such as community resolutions that are not recorded on the PNC.

All caution and conditional caution forms signed by children included a statement about disclosability. This was not, however, in language that was understandable to children. Children told us that they sometimes signed the caution to get out of the room as quickly as possible, without fully understanding the implications. In view of the potential disclosure of any out-of-court disposal through enhanced DBS checks it is important that the child understands and is advised about these clearly, before accepting the disposal.

Good practice example – making sure children understand a youth caution *- County Durham had developed and implemented, in conjunction with children, a communication friendly version of the YC. The translation was agreed with Durham Constabulary solicitors. Case managers used this with children before they received the caution from the police, so they fully understood what it would mean. This was also available as a link for smartphone or computer. The YOT police officer also has this when delivering the caution, to ensure the child is fully able to participate, and understands what they are signing.*

There are strong reasons why police and prosecuting authorities need to maintain information about the child's offending history. Conversely, there is clear evidence (for example Maruna 2002) about the importance of supporting the child to develop a non-offending view of themselves, and of course the maintenance of information on a police record may not help in developing that mindset.

Moreover, the potential that out-of-court disposals could be disclosed within a DBS check later in life should be made clear. While the individual does not have a formal criminal record, they have a disclosable offending history. Individuals in these circumstances may well be unclear whether they should or should not refer to the outcome in job and other application forms.

6.7. Conclusions and implications

Some of these cases are complex, yet we found that case managers usually handled out-of-court disposal cases with confidence. The initial outcomes from out-of-court work were impressive, with good intervention work. The planning for that was often opaque, however. It was often unclear how well the voice of the child had been heard in assessment, planning and decision making. More, and earlier, attention could be given to motivating children to engage with the voluntary nature of some out-of-court disposals.

YOTs and the YJB should agree an approach to the use of assessment frameworks that recognises both the practical issues for YOTs seeking to deliver high volumes of often short pieces of work, and the YJB's objective to have a common approach to high quality assessments that should be able to be used and transferred consistently throughout the youth justice system. It should, equally, recognise the nature of much out-of-court disposal work, especially for children who have not previously entered the criminal justice system or received a statutory disposal.

7. Out-of-court disposal provision in England and Wales

In planning this inspection, it became apparent that very little information was available about the range and nature of out-of-court disposal schemes operated in England and Wales. HMI Probation, therefore, surveyed YOTs to gather data about these to help identify suitable areas for inspection fieldwork, and to inform initial judgements about some aspects of the arrangements. This chapter describes and explores the findings from the survey.

7.1. The survey

A short electronic survey was provided to all YOT managers for them to complete in conjunction with police colleagues. We received a response from 139 YOT areas, which represented 90% of the YOTs in England and Wales. We present the findings here.

Strategy and leadership

Almost all areas said that their YOT management board took a lead role in the strategic prioritisation, planning for and oversight of work to reduce entry to the youth justice system. Nevertheless, almost one in ten said their management board did not take such a lead role.

The office of the Police and Crime Commissioner (PCC) was recognised as playing a role in prioritisation, planning or funding of out-of-court disposal work by almost two-thirds of areas. A third indicated that partners other than the PCC, YJB or local authority made a specific contribution to this work. In Wales, the Wales Government was a funding and prioritisation partner, consistent with its approach to implementation of the UN Convention on the Rights of the Child.

Most respondents described a local scheme that exceeded the minimum requirements of national guidance. Impressively, 44% of areas said that they would expect to assess all cases being considered by the police for an out-of-court disposal, and a similar percentage indicated that they could be asked to assess cases where the police were considering charging the child. Half would also undertake an assessment on cases referred from other partners.

Assessment

Youth conditional cautions (YCCs) are the only disposal that require an assessment before the disposal decision is made, yet only 71% of respondents said they did this for cases being considered for YCCs. Almost two-thirds said that their assessment would inform a decision on a second or subsequent youth caution (YC), 44% on a first YC and just over a third on cases being considered for a community resolution (CR). Only 12% of YOTs said that they never undertook an assessment before the disposal was given – making such practice now the exception. The opportunity to undertake assessments to inform decision making indicated the positive relationships and joint working between YOTs and their local police.

Decision-making responsibilities

The formal decision-making responsibility for out-of-court disposals rests with the local police force, although guidance encourages joint decision-making processes. Over three-quarters of areas said that they had a joint decision-making process for each type of out-of-court disposal, the highest being for YCCs (87%). Over two-fifths of areas said their joint decision making was undertaken within a formal panel, and 11% said their panel included one or more community volunteers.

Almost two-thirds of areas said the police had sole responsibility for making a community resolution decision in some or all cases, consistent with the need to resolve suitable cases quickly and at the lowest appropriate level.

Scrutiny and oversight

Out-of-court disposal work should be subject to local oversight through a scrutiny panel, with the local police force responsible for ensuring that this happens. Almost one in four respondents said that there was no scrutiny panel in their area.

The most common membership of out-of-court disposals scrutiny panels (in those areas that had one), illustrating the variety of partners that were involved	
Police	93%
Youth offending team	90%
Sentencers	75%
Crown Prosecution Service	63%
Victims' organisation	45%
Lay community member	25%
Defence lawyers' representative	16%
Children's services (in addition to the YOT)	10%
Independent chairperson	21%

YOTs are generally expected to monitor and address any disproportionality in the youth justice system. Almost half of YOTs, though, said that there had been no recent work in their area to develop the contribution of out-of-court disposals to reducing disproportionality.

The out-of-court disposal framework expects areas to monitor and evaluate the impact of out-of-court disposal work on offending rates, but just over a tenth of respondents said that they did not do that. Almost a sixth of areas had a dedicated local body to monitor and oversee out-of-court disposal work, and one tenth said they had commissioned external academic or other evaluation. Almost a fifth of areas provided a periodic evaluation to their PCC office, and almost three-quarters reported progress to their YOT management board.

Only a minority of areas had routine processes to learn lessons from out-of-court disposal cases where the individual subsequently offended.

Finally, just over two-thirds of respondents said there had been recent work in their area to build or maintain public or sentencer understanding of or confidence in the use of out-of-court disposals. Such understanding and confidence is important because it can inform the likelihood of sentencers remitting cases for consideration of suitability for an out-of-court disposal, and can influence their response to children who subsequently appear in court.

7.2. Conclusions and implications

Local criminal justice system leaders are generally playing a suitable role in encouraging, developing and overseeing out-of-court work locally.

Most but not all out-of-court disposal schemes exceed the statutory minimum requirements, both in their breadth and in the opportunity to use YOT assessments to inform decision making. In many areas, there are joint decision-making arrangements for the broad range of out-of-court disposals, indicative of positive relationships between YOTs and their local police force.

Local scrutiny and monitoring is variable, with one in four areas reporting no scrutiny panel.

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Appendices

Appendix 1: Glossary

Asset Plus	Assessment and planning framework developed by the Youth Justice Board for work with children who have offended, or are at risk of offending, that reflects current research and understanding of what works with children.
Bureau system	An approach to early diversion of children from offending that was developed in Swansea as a partnership between Swansea YOT and South Wales Police. Its ethos was based on the 'child first, offender second' approach. The approach was then rolled out across Wales. The child would be expected to make amends for their offending, and be offered services to help them avoid further offending. It has many similarities to the panel approach to dealing with out-of-court disposals developed subsequently in many other YOTs.
Case manager	The practitioner who holds lead responsibility for managing the case of a child under YOT supervision.
Child protection	Work to make sure that that all reasonable action has been taken to minimise the risk of a child coming to harm.
Community resolution	Used in low-level, often first-time, offences where there is informal agreement, often also involving the victim, about how the offence should be resolved.
Desistance	The cessation of offending or other antisocial behaviour.
Disclosure and Barring Service	A government agency responsible for helping employers make safer recruitment decisions, particularly to prevent unsuitable people working with vulnerable groups. It fulfils this responsibility in large part by processing requests for criminal record checks (DBS checks)
First-time entrants	A child who receives a statutory criminal justice outcome (youth caution, youth conditional caution or conviction) for the first time.
Intervention	The work undertaken directly with the child intended to change their behaviour.
Intervention plan	The programme of work drawn up by the case manager in collaboration with the child outlining what will be done to support desistance.
Legal Aid Sentencing and Punishment of Offenders Act (LASPO) 2012	A wide-ranging piece of legislation making reforms to the criminal justice system. These include creation of youth cautions and youth conditional cautions, to replace the previous statutory out-of-court disposals for children.
Looked-after child	A child in the care of the local authority, as a result of a court order or a voluntary agreement with the parents.
MoJ	Ministry of Justice

National Standards for Youth Justice	Issued by the Youth Justice Board, outlining the minimum contact levels and timescales for key tasks in the YOT's delivery of court orders.
Out-of-court disposal	The resolution of a normally low-level offence, where it is not in the public interest to prosecute, through a community resolution, youth caution or youth conditional caution.
Partners	Partners include statutory and non-statutory organisations, working with the participant/offender through a partnership agreement.
Police and Crime Commissioners	The Police and Crime Commissioner is a locally elected representative responsible, among other responsibilities, for securing efficient and effective policing of a police area. They are required to produce a periodic local police and crime plan.
Restorative justice conference	Offenders come face-to-face with their victims and hear directly the impact of their actions. Victims have a chance to tell offenders how they have been affected. Offenders gain empathy and understanding for those they have harmed, and the opportunity to make amends.
YOT police officer	The police, along with other statutory partners, are required to second staff into the YOT. The main purpose of the seconded police officer is to use their specialist skills, and warranted responsibilities, to support the work of the YOT in seeking to reduce offending and protect the public. Further information can be found at: https://www.gov.uk/government/publications/youth-offending-teams-the-role-of-the-police-officer
Youth caution	A caution accepted by a child following admission to an offence where it is not considered to be in the public interest to prosecute the offender.
Youth conditional caution	As for a youth caution, but with conditions attached that the child is required to comply with for up to the next three months. Non-compliance may result in the child being prosecuted for the original offence.
Youth Justice Board (YJB)	The government body responsible for monitoring and advising ministers on the effectiveness of the youth justice system. Provides grants and guidance to the youth offending teams.
Youth offender case disposal gravity factor matrix	Classification of most common offences on a scale of 1 (low gravity) up to 4 (high gravity), based on the seriousness of the offence. Intended to assist in prosecution decision making, alongside the evidence and other mitigating or aggravating factors. Can be found at http://cps.gov.uk/legal/assets/uploads/files/Gravity%20Matrix%20May09.pdf

Youth offending team (YOT)	YOTs are known locally by many titles, such as youth justice service (YJS), youth offending service (YOS), and other generic titles that may illustrate their wider role in the local area in delivering services for children.
Youth restorative intervention	Name for the pre-caution out-of-court disposal used in Surrey.

Appendix 2: Methodology

Before planning the inspection fieldwork, we surveyed all youth offending teams (YOTs) in England and Wales to understand the breadth and nature of out-of-court disposal provision.

The fieldwork was undertaken at seven YOTs during July and August 2017, following methodology piloted in June 2017. The YOTs were chosen with the intention of inspecting a range of approaches to the delivery of out-of-court disposal work.

The YOTs visited as part of the inspection were:

County Durham

Flintshire

Leeds

Northamptonshire

South Gloucestershire

Southampton

Surrey

Wirral (final pilot).

Before commencing fieldwork, we reviewed literature on out-of-court work, recently published research, legislation and guidance. We obtained key policy and other documents from the YOT and police force areas we were inspecting.

During fieldwork, we examined a sample of cases across the inspection sites where the YOT had been expected to undertake an assessment or deliver intervention work. Each case was inspected, wherever possible, alongside the allocated case manager. This helped to ensure that the inspector fully understood the case, and that the inspection also became a learning opportunity for individual case managers. Cases were selected at random by HMI Probation, subject to providing a balance that reflected the types of out-of-court disposal in each area, and the balance of other characteristics as they appeared in the individual YOT's caseload. All cases had received their disposal between three and six months before the fieldwork.

Where the YOT had been able to arrange it, we spoke to the victim, child and parent/carer in inspected cases.

We undertook 'reality checks' of out-of-court disposal work with neighbourhood, response and custodial police officers. We also interviewed some of their managers. Where disposal decisions were made by a panel, we observed the panel at work.

We held separate focus groups with practitioners, managers, victim workers and representatives of partner agencies involved in out-of-court disposal work.

We interviewed the chair of the YOT management board, the police representative on the board, the Police or Crime Commissioner or their representative, the chair or representative from the local scrutiny panel, the YOT information manager and seconded YOT police officers.

We liaised with the Youth Justice Board throughout the inspection.

Case profile

Total cases inspected – 112

Youth caution – 31, youth conditional caution – 32, community resolution – 49

Male – 80 (71%), female – 32 (29%)

97 (87%) children were white

24 (22%) children were recorded by the case manager as having a disability

18 (16%) children were looked after by a local authority.

NB: Throughout this report all names referred to in good practice examples have been amended to protect the individual's identity.

ISBN: 978-1-84099-811-5