

# Understanding Youth Diversion in London

## Evidence and practice briefing

### Introduction

Point-of-arrest youth diversion addresses low-level criminal behaviour without putting children and young people through formal criminal justice processing – out of court disposals or prosecution – thereby averting negative consequences such as a criminal record or interruption of education.<sup>1</sup> Youth diversion involves short assessments and quick referrals into light-touch, voluntary programming. There is extensive evidence that youth diversion reduces reoffending, lowers costs, and leads to better outcomes for children and young people.<sup>2</sup>

Point-of-arrest youth diversion coverage in London is near comprehensive, with our recent survey of diversion practice indicating that 29 of London's 31 youth offending teams have point-of-arrest schemes in place to divert children and young people.<sup>3</sup> In 2019 the Centre for Justice Innovation held two practice-sharing workshops for 30 London youth diversion practitioners. Some excellent local practice was evident, including: tailored, evidence-informed interventions; well-performing scrutiny panels; and strong links with community organisations. Moreover, as the case studies below show, practice has proven responsive to London's particular landscape: Turning Point in North West London permits acceptance of responsibility over admission of guilt to address disproportionality; and Hackney's Prevention & Diversion scheme operates within Early Help & Prevention Services to lessen the impact of labelling.

However, London police and youth offending service practitioners flagged enhancing consistency as a key challenge for diversion in London. They told us that differences in eligibility criteria and referral processes in particular are leading to a "postcode lottery". This echoes the more general concerns about inconsistencies in out-of-court work across England and Wales which were reported in HMIP's most recent annual report on of youth offending services.<sup>4</sup>

This briefing seeks to improve understanding of innovative practice in London youth diversion delivery, as well to highlight the concerns that some practitioners have expressed around the issue of inconsistency.

### Local context

London has two police forces – the Metropolitan Police Service and City of London Police – and 31 youth offending teams. London's youth justice system faces a distinctive challenge. Per capita, London sees more than twice as many proven drug offences by young people than other English regions, and more than half again as many proven robbery offences.<sup>5</sup> London is also a highly diverse city with 55% of residents coming from Black, Asian or minority ethnic backgrounds: far higher than comparable police force areas such as Greater Manchester (20%) or West Midlands (34%).<sup>6</sup>

### Key points

- **Point-of-arrest youth diversion coverage in London is near comprehensive.**
- **Innovative practice in the delivery of diversion has been responsive to the London landscape.**
- **Practitioners have expressed concerns around the issue of inconsistency.**

London's police forces and city government take a distinctive approach when it comes to youth diversion. For example, while many police forces outside London are now using Outcome Type 22 to record diversions, it is unclear when – or even if – it will be adopted by the Metropolitan Police.<sup>7</sup> Further, while Police and Crime Commissioners are a key funding partner for point-of-arrest diversion in many parts of England and Wales, London's equivalent – the Mayor's Office for Policing and Crime – appears to play a more limited role in funding these schemes.

On the other hand, some trends in youth diversion across England and Wales are evident in London. These include, for example, moving diversion out of youth offending services and into family support (or at least having appointments take place outside the YOS), and increased use of third sector organisations to deliver interventions and help develop robust exit strategies. Furthermore, challenges (such as funding cuts, staff shortages, increased demand, joint working with police, securing buy-in from all partners, and lengthy referral periods) and exciting developments (including: a joint commitment of partners not to criminalise children unnecessarily, better outcomes for children, ongoing reductions in first time entrants, and developing effective restorative approaches) were shared by practitioners both in and outside London.

## Innovative youth diversion practice in London

Our London practice-sharing workshops and survey responses highlighted some solid practice in London diversion schemes. For example, practitioners highlighted that they were using a broad range of evidence-based interventions, with the most common being: victim awareness classes, substance misuse help, mental health support, family support and weapon prevention. The victim is involved in some way in all London schemes that answered the survey question, with the opportunity to participate in restorative approaches available in the vast majority. Practitioners also praised their multi-disciplinary scrutiny panels for ensuring robust decision making, and their strong relationships with third sector organisations, who help deliver expert interventions and co-develop exit strategies.

## Case studies

### Turning Point, London's North West Borough Command Unit

*We spoke with Ashley Kilgallon, Project Manager of Turning Point in North West BCU, about their youth diversion scheme.*

#### Scheme process

North West BCU operates a police-led deferred prosecution scheme called Turning Point. Youth diversion forms part of Turning Point and contributes as another alternative to youth out of court disposals (OoCDs) available. To participate in the youth diversion side of Turning Point a person must be under the age of 18 years old and have been arrested (or have attended a voluntary interview) for a minor offence (such as common assault). To address disproportionality in charging and as per the Lammy Review Recommendations, they do not need to admit guilt for the offence; alternatively, in order to be eligible for Turning Point there needs to be enough evidence to charge/caution them before they're considered for Turning Point – i.e. it needs to meet the full code test. There is a strict eligibility criteria, dictated by the Ministry of Justice, but a notable difference to our adult scheme is that the young person must have less than three previous courts convictions (not cautions) within the past year.

The youth diversion side of the Turning Point referral process involves a weekly panel where OoCDs are considered. If any Youth Cautions (YC), Youth Conditional Cautions (YCCs) or Charges are agreed upon, these cases are put through the 'Randomiser' Online Tool to determine if they are to be put into Control group (Charge/Caution as normal) or Treatment Group (referred to Turning Point). These two cohorts are essential for accurately tracking if Turning Point impacts reoffending rates. Young people who are referred into Turning point are then offered a variation of rehabilitative, reparative or restrictive interventions (offence dependent) that last for sixteen weeks. If the young person successfully engages with the interventions their crime is processed as a Community Resolution (where the offence has been admitted) or NFA'd (where no admission has taken place). The MPS will soon start using 'Outcome 22' to process successful completions of Turning Point. Importantly, if a young person is successful in completing their contract they receive no criminal record for that specific offence. However, if they breach the terms of their contract the young person is referred back to the officer in the case for the original

charging decision (charge/caution).

### Partnership working

A big challenge faced within London on youth diversion is the complexity of partnership working with councils. Although challenges within partnership working are certainly not uncommon, it does prove to be a challenging frustration and risks the central point of the scheme (the young person's needs) being displaced. This is likely an enhanced stressor within London due to the sheer size of the city and the demands being placed upon all services.

To try and minimise any potential disruption to a young person participating in Turning Point, we are now working towards an entirely 'in-house' youth referral process, whilst maintaining relevant agency links and assistance where appropriate. This allows our Turning Point team to further enhance their strong rapport being established between offender managers (OMs) and referral, which maximises the potential for a positive impact on the young people referred. OMs can build strong and effective partnerships - working with the young people from the very beginning - meaning they work case-by-case to ensure available contractual conditions are as effective as possible and they are negotiated and agreed upon in a timely manner with the young person. Further, the 'in-house' management of referrals provides a higher degree of continuity, consistency and swiftness of action which will benefit working with referrals and partner agencies.

### A case example

We recently had a young person successfully complete Turning Point, who came from a relatively chaotic home-life. He built a personable relationship with his OM, requesting a number of additional appointments with her. Towards the end of his contract the Turning Point team were keen to link him with proactive services who he could continue to positively engage with following the completion of his contract. He was connected with one of our partner agencies – Saracens – to join a new mentoring programme. Through these personal relationships built between OMs and their referrals, a continuation of service (where the young person themselves feels it is appropriate and beneficial) can be established through our professional networks, meaning the potential for longer term impact.

## Triage, Young Hackney's Prevention & Diversion

*Francesca Fadda-Archibald – Practice Development Manager Young Hackney Early Help & Prevention – writes about their Triage.*<sup>8</sup>

### Introduction

Hackney's Prevention & Diversion (P&D) team is located within Early Help & Prevention Services, enabling us to offer young people diversionary interventions distinctly from a statutory context. The service aims to: swiftly establish a trusted and open relationship with young people and their families; explore their views on restorative justice and the possibility of repairing harm if there was an identified victim; understand their lived experiences and factors supporting or impeding desistance; to tailor an intervention plan responsive to their needs and interests; and ensure a careful exit strategy and follow-on support as needed is in place. In parallel, we also ensure all victims are contacted, their views are incorporated into the intervention and, whenever possible, deliver a direct or indirect restorative intervention.

### Triage process

A young person becomes involved with P&D if they have been arrested for a low-level criminal offence and they have admitted responsibility for this offence. Following arrest, a police officer creates a file and the file is referred to the YOT police. The young person is then referred to P&D for a swift assessment to identify their risks and needs and gather their views on engagement with an out-of-court intervention.

A Joint Decision-Making (JDM) Panel Meeting is held weekly. Membership includes: P&D Team Leader; Restorative Justice & Victim Worker; YOT Police Officer or Sergeant; Speech, Language & Communication Specialist; and P&D assessor. If the young person is receiving support from any other agency, they will be invited to attend if appropriate. The panel can divert the Out of Court work to the professionals already involved with the young person if deemed appropriate to best address the

desistance needs identified.

The decision-making process always considers what is in the public interest, with the ACPO gravity score determining the baseline for the outcome. From the assessment, the Panel can hear the views of the young person and the parent(s)/ carer(s), and also the risks and needs of the victim. Young people who have previously participated may be considered a second or additional times depending on the nature of the offence, period of desistance, previous level of engagement and/or personal circumstances. A decision is then made that is bespoke to the young person. Where possible the panel will consider a Triage intervention (however, for more serious cases, a longer intervention through a Youth Caution or Youth Conditional Caution will be given). A suitable plan is then agreed at Panel, and discussed and agreed at the initial meeting with the young person and family/ carer, their P&D worker and the YOT police.

There is no set time period for Triage interventions, however they are usually short (four to six weeks). If there are any further specific needs identified that require additional support, P&D will continue to support the young person until it is deemed appropriate to divert or refer to Young Hackney Early Help for targeted support, or link them into a range of universal opportunities.

Upon completion of the Triage intervention, P&D reports back to the YOT police on the young person's success. Successful completion of Triage interventions results in a young person not having a criminal record on the Police National Computer (PNC). However, in limited circumstances it may be disclosed on an enhanced DBS at the discretion of the chief officer of the relevant police force. Consequently, we are currently reviewing and developing flowcharts, in consultation with our speech and language therapist colleagues, to ensure that young people and their families understand the implications of this and how to approach disclosures in future.

### Outcomes and challenges

From 2017/18 data, 86% of children that received Triage had not become a FTE in the 12 months after the Triage was issued. This success is partly a result of the strong partnership between Police and the Youth Offending Service, including effective joint decision making, which keeps children and young people diverted from the system. Furthermore, practitioners use innovative techniques for intervention and relationship building to ensure the individual needs of young people are addressed. Feedback from the young people has been very positive, for example: "I definitely feel like I've turned a corner. I made a mistake and wanted to make amends and I genuinely feel like I have done this."; "It made me see the bigger picture in a lot of things, it helped me understand more. Working with [P&D Worker], she understands things and helped me work around them." Feedback from victims also shows high levels of victim satisfaction, for example: "I felt well cared for throughout the process and it was calm and well managed."

However, some challenges remain, including: ensuring assessments are completed within short timescales and proportionate and effective interventions are delivered; ensuring disproportionality is challenged, while accounting for individual circumstances; and dealing with faltering engagement effectively.

## Key challenge: enhancing consistency

Practitioners highlighted the problems caused by inconsistencies in how youth diversion operates across London. In particular, they singled out differing practices in terms of eligibility criteria and referral mechanisms – those parts that hinge most on joint working between police and youth offending services. Such inconsistencies were also apparent from London schemes' responses to our mapping survey.<sup>9</sup> Practitioners recounted instances of similarly placed children and young people (sometimes even having carried out the same offence together), being given markedly different outcomes, with some children and young people being appropriately de-escalated and others unnecessarily drawn further into the justice system. However, consistency in interventions was not raised as a concern, and indeed it was stressed that programming should ideally be locally led, in line with the area's resources and needs. Overleaf are some aspects of eligibility and referral that practitioners flagged as in need of greater consistency.

## Operational working

- **How children and young people are referred into diversion**

Police practitioners in particular expressed frustration that referral processes are not always uniform across the London youth offending services they work with. Indeed, some of our practice support work has involved helping develop a single referral process in areas where one police force serves several YOSs, each with a different diversion scheme referral process. High staff turnover and inter-team movement makes having a single referral process even more pressing.
- **The working relationship between the police and youth offending service**

Lines of communication and joint working practices between police and YOS around diversion appear to vary widely among London boroughs. For example, some areas noted that the decision to divert is made jointly by police and YOS, while others indicated that it was solely a police decision. While a strong police-YOS working relationship rests in large part on particular staff in the particular area, a shared protocol between the agencies setting out agreed modes of communication and joint working practices would put these on a surer, more consistent footing.
- **Feedback to referring officers**

Practitioners flagged that feedback on the progress of diversion cases to referring officers is inconsistent both between and within London boroughs. This feedback can help secure police buy-in and confidence in the scheme, thereby ensuring more referrals in future. Feedback should be consistently provided, but practitioners suggested that it need not take a consistent form (e.g. a narrative case study rather than a quarterly statistics roundup).

## Eligibility criteria

- **Whether young people are required to accept responsibility or admit guilt**

Whether a child or young person is permitted to 'accept responsibility' rather than having to 'admit guilt' to be eligible for youth diversion varies by scheme: a third of London schemes who responded to the question said accept responsibility is permissible for diversion schemes, with the remaining two thirds requiring the child or young person to admit guilt. As outlined in our eligibility criteria briefing, requiring mandatory admissions may have a disproportionate impact on Black, Asian and Minority Ethnic (BAME) children and young people.<sup>10</sup> The lesser requirement of 'accept responsibility' provides a more flexible alternative and could reduce the number of young people escalated into the criminal justice system than necessary. Given some diversion schemes for adults use a more flexible alternative, in line with The Lammy Review, the uniform extension to children and young people could be expedited.<sup>11</sup>
- **The offence and re-entry criteria used**

Similarly, the offence criteria used differ by scheme, with, for example, a roughly equal number of London schemes responding to the survey question saying they permit 1-2, 1-3, and 1-4 gravity scores for diversion. Practitioners also reported different offence type exclusions in their diversion schemes, with some automatically barring knife possession, hate crime and drug offences, for example, and others working on a more flexible case-by-case basis. Similarly, survey responses and insights from workshop attendees suggested that while some London schemes bar children and young people where the offence or diversion is not their first, others permit previous offence(s)/ diversion(s) and work case by case.

Practitioners wanted all London schemes to operate within the same eligibility criteria framework. They accepted that the need for professional discretion would mean that not all decisions in like cases will be exactly the same, but suggested that a uniform baseline to work from would improve fairness and consistency overall.

- **Options available where cases are referred back from court**

Low-level cases that are inappropriately escalated to court are sometimes referred back to the youth offending service or relevant panel for consideration of an out of court disposal or a diversion. However, operation of this process in London is inconsistent. Some areas reported that when a case is referred back in this way, the only options available are a youth caution or youth conditional caution, while others have the whole range of options available, including no further action. Practitioners wanted clarity and uniformity around the options available where cases are referred back from court.

## Concluding thoughts

Innovative practice in the delivery of diversion has been responsive to the London landscape. The Hackney and the North West BCU case studies are just a couple examples of this. They show the commitment of YOTs and local police to working together to reduce the impact of criminal justice involvement for children and young people. However, a key challenge remains: that of enhancing consistency in the delivery of youth diversion in London. Crucially, balance needs to be reached. Practitioners noted that the need for professional discretion would mean that not all decisions in like cases will be exactly the same, but a uniform baseline to work from would improve fairness and consistency overall. As highlighted in our paper *Strengthening Youth Diversion*, this challenge of inconsistency is one faced by England and Wales as a whole, and one that needs addressing at a national level.<sup>12</sup>

There is national work in train that may go some way to address these issues; the YJB is currently updating its Case Management Guidance which will include more information on diversion and examples of best practice. In addition, the recent HMIP consultation and review of the inspection framework will hopefully provide further clarity to practitioners. In the meantime, London police and youth offending services should continue working together to ensure innovative practice develops and consistency within London is enhanced.

## Endnotes

1. For low-level offending, instead of being arrested, children and young people are increasingly being taken to a place of safety and undertaking a voluntary interview. As such, 'point of arrest' is not always meant literally, but rather indicates that a threshold of offending has been reached.
2. See, for example: Wilson, D, Brennan, I, Olaghere. (2018). 'Police-initiated diversion for youth to prevent future delinquent behaviour'. *Campbell Systematic Reviews*; Wilson H, Hoge R (2013). The Effect of Youth Diversion Programs on Recidivism: A Meta-Analytic Review. *Criminal Justice and Behavior*, 40(5), 497-518; and McAra, L, McVie, S (2010). 'Youth Crime and Justice: Key Messages from the Edinburgh Study of Youth Transitions and Crime'. *Criminology and Criminal Justice* 10(2): 179-209.
3. We supplemented our general survey (the findings of which are summarised in Centre for Justice Innovation (2019). *Mapping youth diversion in England and Wales*), with further outreach to London youth offending services.
4. Based on data taken from YJB / MoJ 2020. Youth Justice Statistics 2018/19 England and Wales
5. Based on ethnicity data taken from the 2011 Census
6. Her Majesty's Inspectorate of Probation (2019). Annual report: inspection of youth offending services (2018-2019). That report also described "a postcode lottery", one where "young people face different outcomes depending on where they live."
7. For a more detailed account of Hackney's out-of-court work, please see the full case study on our website.
8. Outcome Type 22 is used for diversionary, educational or intervention activity, resulting from the crime report, has been undertaken and it is not in the public interest to take any further action.
9. Centre for Justice Innovation (2019). *Mapping youth diversion in England and Wales*.
10. Centre for Justice Innovation (2019). *Who should be eligible for youth diversion?*
11. Lammy, D. (2017). *The Lammy Review: An Independent Review into the Treatment of, and Outcomes for, Black, Asian and Minority Ethnic Individuals in the Criminal Justice System*.
12. Centre for Justice Innovation (2019). *Strengthening Youth Diversion*.

This series of evidence and practice briefings aim to share and champion good practice in court innovation. Thanks to the Esmée Fairbairn Foundation and the Hadley Trust for funding this work.

Written by: Claire Ely, Francesca Fadda-Archibald, Bami Jolaoso, Ashley Kilgallon, Carmen Robin-D'Cruz, Rachel Waters and Stephen Whitehead.

### Centre for Justice Innovation

Unit 102, Edinburgh House  
170 Kennington Lane, London SE11 5DP  
Telephone +44 (0) 203 735 9436

Registered charity in England and Wales No 1151939  
Company limited by guarantee no. 8274430



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