

# Mainstreaming Youth Diversion

In January 2021, the Centre for Justice Innovation convened leading figures from the justice system to discuss how to put youth diversion on a more mainstream footing. This briefing provides some background to the topic and summarises the themes from the discussion.

## Background

Pre-court diversion for children and young people comprises two main options: (i) formal out of court disposals, which carry criminal record consequences; (ii) point-of-arrest diversion,<sup>1</sup> which seeks to avoid these consequences, in return for the completion of community-based interventions. Point-of-arrest diversion should be a lesser criminal justice disposal than the young people would have otherwise received, reducing the negative consequences of formal criminal justice sanctions while allowing practitioners to focus resources on addressing the young person's behaviour. The distinction between these two forms of pre-court diversion has been recently recognised in the Youth Justice Board (YJB) national standards for children in the youth justice system, which states that "point-of-arrest diversion is evident as a distinct and substantially different response to formal out-of-court disposals."<sup>2</sup>

### *Availability of point-of-arrest diversion*

In 2018, the Centre conducted the only mapping exercise done to date on the availability of point-of-arrest diversion for children.<sup>3</sup> We found that it is available in almost every local authority in England and Wales. We found good evidence in the range of interventions on offer among schemes and in how different diversion schemes involved and informed victims. We also found broad evidence that practitioners were reporting there was an increasing point-of-arrest diversion workload, though the lack of data collection meant it was not possible to quantify this either regionally or nationally.

### *Variation in practice and sustainability*

Yet, we also found that there was significant variation in its practice (an issue highlighted by HMI Probation in 2020),<sup>4</sup> in terms of requirements on children to plead to or admit guilt, in defining eligibility (including which offences were excluded, when it would be offered and how children were assessed as eligible) and also in outcomes monitoring. Our survey work has also revealed that there were significant weaknesses in its long-term sustainability and funding arrangements. When asked for the most significant challenges to continued operation, respondents commonly cited funding cuts, staff shortages, and increased demand.

## Key themes from discussion

**Attendees agreed on the value of point-of-arrest youth diversion** for children themselves, and for wider society. There was a shared commitment to diversion as a way of avoiding drawing children (further) into the justice system, preventing them from being labelled with a criminal identity, and avoiding the negative consequences of a criminal record. There was also a commitment to see youth diversion available in all cases where it was appropriate and effective. consequences are of non-compliance.

**The availability and consistency of data on youth diversion was a recurring area of concern.** Attendees noted significant gaps in the data available on youth diversion including:

demographic data; headline national and regional figures such as how many children are being offered diversion; data on the provision of diversion and what interventions are available; and data on the effectiveness of different interventions.

**The discussion highlighted the need for consistency in approaching youth diversion.** This applied to a number of areas, including how to define, record and report diversion; and what diversionary interventions should consist of. In addition, attendees noted significant variation in quality, practice and service provision in youth diversion. It was noted that guidance and an effective and well-understood inspection framework are crucial for achieving this consistency.

**Disproportionality was a key area of concern.** Attendees noted that what data is available highlighted a number of areas of concern. The issue of racial disparity ran through the whole discussion, being raised in connection to a number of areas such as how admissions of guilt were approached. It was also recognised that children coming into contact with the justice system are disproportionately likely to have complex needs and vulnerabilities (for instance to be care leavers, to be experiencing poverty or have special educational needs or disabilities) and that when (and whether) these needs are identified has a significant impact on their experiences with the criminal justice system. There was agreement about the importance of better understanding disproportionality in youth diversion, as well as the need to address it.

**The discussion also noted the importance of a sustainable financial basis for diversion.** The lack of direct funding for diversion work meant that reductions in the statutory caseload of YOTs threatened to undermine the resource they received, even as their nonstatutory work with diversion was increasing. It was also noted that other agencies such as health and Police and Crime Commissioners often play an important role in funding diversion work. More widely, it was noted that organisations outside the justice system have a vital role in providing resources, funding streams and expertise for delivering effective youth diversion and that there may be a real opportunity to make a difference in the Spending Review in the summer.

**The discussion emphasised the importance of organisations beyond the criminal justice system for successful mainstreaming of youth diversion,** for instance health and education. These organisations were acknowledged to be crucial for providing services to divert children into in the first place, as well as in connection to funding and partnership working. There was a consensus around the importance of avoiding a siloed approach to youth diversion, and the need to make the case for youth diversion to organisations outside of the justice sphere and spread effective multi-agency partnership working.

## Attendees

Tom Dooks (Association of Youth Offending Team Managers)

Phil Bowen, Claire Ely, Duncan Lugton (Centre for Justice Innovation)

Gerry Wareham (Crown Prosecution Service)

Caroline Adams (Staff Officer for National Children & Young Persons Portfolio to CC Jo Shiner)

Liza Durkin, Justin Russel (HMI Probation)

Minister Lucy Frazer, Dilys Alam, Harriet Braithwaite, Kathryn Newton, Paul Jones (Ministry of Justice)

Jason Kew (Thames Valley Police)

Keith Fraser, Kate Langley, Katie Shoebridge (Secondment from HMI Probation) (Youth Justice Board)

## 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. Youth Justice Board/Ministry of Justice (2019), Standards for children in the youth justice system 2019, available at [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/780504/Standards\\_for\\_children\\_in\\_youth\\_justice\\_services\\_2019.doc.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/780504/Standards_for_children_in_youth_justice_services_2019.doc.pdf)
3. Centre for Justice Innovation (2019), Mapping youth diversion in England and Wales, available at <https://justiceinnovation.org/sites/default/files/media/documents/2019-02/mapping-youth-diversion-in-england-and-wales-final.pdf>
4. Her Majesty's Inspectorate of Probation (2020), Annual report: inspection of youth offending services (2019-2020), available at <https://www.justiceinspectors.gov.uk/hmiprobation/wp-content/uploads/sites/5/2020/11/HMI-Probation-Youth-Annual-Report-2020.pdf>

## About the Centre for Justice Innovation

The Centre for Justice Innovation seek to build a justice system which all of its citizens believe is fair and effective. We champion practice innovation and evidence-led policy reform in the UK's justice systems. We are a registered UK charity.

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