

Data on Youth Diversion

BACKGROUND TO THE PAPER

His Majesty's Inspectorate of Probation, in their 2022/23 annual report on youth justice services, found that "on average, more than half of a youth justice service caseload is made up of children receiving preventative or diversionary support" but "that there remains widespread confusion... inconsistent practice owing to a lack of central guidance, and ongoing significant gaps in data."¹ As we, the Centre for Justice Innovation, wrote in 2020, there is no clear national picture of what youth diversion activity is being undertaken or the needs and demographics of those who are being diverted, because there is no requirement for youth justice services (YJSs) to report nationally on youth diversion and it is not compulsory for police to record such activity in a consistent way.

This national data gap on diversion means that police and YJSs do not always have their diversion work recognised in crucial areas like funding formulas, resulting in inadequate funding for this significant aspect of their workload. As we previously concluded, poor data reporting "makes it difficult to understand what is currently taking place, how well needs are being addressed, whether particular groups are not being treated equitably, or what a more effective funding system might look like."² Furthermore, Justin Russell, Chief Inspector of Probation, described how "what is now the predominant way of dealing with children who have committed an offence remains uncounted and unevaluated."³

PURPOSE OF THE PAPER

In line with the Youth Endowment Fund's (YEF) work to provide guidance to practitioners on evidence-led diversion for under 18s, the Centre for Justice Innovation has been commissioned to provide:

- An overview of who collects data on youth diversion and what this data includes;
- An assessment of the current youth diversion data and an initial assessment of planned changes; and
- Recommendations for improvement in youth diversion data.

OVERVIEW OF YOUTH DIVERSION

Defining youth diversion

There are a range of activities which can occur when a child has been linked to an offence. A number of these activities are what are known as pre-court disposals. Pre-court disposals are the responsibility of criminal justice agencies, mostly prominently the police and the partnerships that comprise youth justice services. Pre-court disposals are distinct from preventative activity that involves working with children who are 'at risk' and/or vulnerable and who may have been involved in offending but who have not been linked to a specific offence.

Pre-court disposals for children are themselves formed of two statutory disposals and a range of

1 HMI Probation. (2023). *Youth Justice Annual Report*. Available at: <https://www.justiceinspectorates.gov.uk/hmiprobation/wp-content/uploads/sites/5/2023/06/Youth-annual-report-2022-v1.0.pdf>

2 Lugton. (2020). *Strengthening youth diversion*. Centre for Justice Innovation. Available at: https://www.justiceinnovation.org/sites/default/files/media/documents/2020-01/cji-strengthening_youth_diversion.pdf

3 HMI Probation. (2023). *Youth Justice Annual Report*.

non-statutory disposals. It is these non-statutory disposals which are commonly referred to as youth diversion (see Table 1).

Table 1: Pre-court disposals

Statutory out of court disposals	
Youth conditional cautions	<ul style="list-style-type: none"> Require an admission of guilt Result in a criminal record, disclosable on standard DBS
Youth cautions	<ul style="list-style-type: none"> Information passed to YJS YJS responsible for assessment and interventions
Youth diversion	
Community resolutions	<ul style="list-style-type: none"> No admissions. Some require acceptance of responsibility, others do not.
No Further Action (informal police disposals, including those recorded as outcome 20, outcome 21 and outcome 22) ⁴	<ul style="list-style-type: none"> Disclosable only on enhanced Disclosure and Barring Service Varying approaches. 'Street' community resolutions often police only YJS may conduct assessment and interventions

The evidence for diversion

The evidence base is clear about the negative impact of the criminal justice system on children's life chances and also on their desistance from crime.⁵ Formal justice system processing (even out of court disposals) makes children more likely to commit crime again. 'Catch and convict' strategies for children is highly likely to provoke higher rates of re-offending and lengthen children's 'criminal careers.'⁶ Therefore, the Youth Justice Board's (YJB) Child First strategy promotes "a childhood removed from the justice system, using pre-emptive prevention, diversion and minimal intervention. All work minimises criminogenic stigma from contact with the system."⁷ In short, diversion is effective because it avoids the harms created by involvement in the criminal justice system, including the further entrenchment of mistrust in authority, anti-social identity formulation, and accentuating trauma. More positively, diversion can be used to meet unmet needs by identifying children's strengths and creating opportunities to realise their potential.

4 The Home Office Counting Rules (HOCR) on recording outcomes define these as: (i) Outcome 20: Action undertaken by another body/agency (from April 2015): Further action resulting from the crime report will be undertaken by another body or agency other than the police, subject to the victim (or person acting on their behalf) being made aware of the action being taken; (ii) Outcome 22: 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 (voluntary from April 2019).

5 Case and Browning. (2021). Child First Justice: the research evidence-base. Loughborough University. Available at: https://repository.lboro.ac.uk/articles/report/Child_First_Justice_the_research_evidence-base_Summary_report_/14153162

6 McAra & McVie. (2023). Edinburgh Study of Youth Transitions and Crime. Edinburgh university. Available at: <https://www.edinstudy.law.ed.ac.uk/>

7 Youth Justice Board. (2022). Child First Guide. Available at: https://yjresourcehub.uk/images/YJB/Child_First_Overview_and_Guide_April_2022_YJB.pdf

Delivery of youth diversion

While the delivery of youth diversion does vary between police forces and YJSs, the core processes⁸ are:

- Contact between the police and a child, where that child has been linked to a specific offence (possibly including an arrest and/or preparation of a case file);
- Referral of the child into diversion, where they are either given an 'on the spot' community resolution (for example, they may be asked to offer an apology to those they caused harm to) or referred by the police to the YJS;
- A decision about whether the child is eligible for diversion, generally taken by a multi-agency panel;
- Induction into the YJS's diversion scheme, including an assessment of the child's strengths and needs;
- Case work with the YJS or other youth work teams (e.g. local authority early intervention teams);
- Involvement, where appropriate, with programmes designed to promote pro-social identity and build on children's strengths and support them;
- Avoidance of a criminal record for the child.

A DATA TYPOLOGY

We developed the following typology to more accurately describe the various components of youth diversion data:

- Data **gathering** refers to the collection of original data about diverted children, the incidents for which they were diverted, the case work and programmes involved, and the children's progress within them;
- Data **recording** refers to the documenting and storage of the original data to preserve it for later use/analysis;
- Data **collation** refers to the aggregation of data on youth diversion;
- Data **analysis** refers to the inspecting, interrogation and modelling of youth diversion data in order to discover useful information, inform conclusions, and support decision-making.

CURRENT LANDSCAPE

Currently, a number of organisations and government departments are responsible for data on youth diversion.

The police

The police gather data as part of the process of linking a child to an offence and, in some circumstances, undertaking an arrest. This data can be gathered on the street by individual officers, by arresting officers and, in some circumstances, by custody sergeants. It will include personal details (such as full name, date of birth, address, sex, ethnicity, height etc.) and details of the circumstances of the incident/offence. They may also collect data on a child's health and particular risk factors. They may, if there is an arrest, ask for fingerprints and DNA samples. They will also require contact details for a child's parent, guardian or carer, or an appropriate adult.

⁸ Estep & D'Cruz. (2019). Valuing youth diversion: A toolkit for practitioners. Centre for Justice Innovation. Available at: <https://justiceinnovation.org/sites/default/files/media/document/2019/Valuing%20youth%20diversion%20A%20toolkit%20for%20practitioners.pdf>

This data is generally recorded on police record management systems (such as Niche) but may also require recording on other systems (such as biometric data storage systems). Data gathered about diverted children may also be cross checked against other databases, such as the Police National Computer (PNC). Where a child is diverted, the police record the particular disposal given, using the Home Office Counting Rules (HOCR) on recording outcomes.⁹

The police collate data on youth diversion disposals as part of their supply of data to the Home Office on crime outcomes. This data is supplied nationally and also used at a force level. These data are quality assured and analysed by Home Office statisticians and any anomalies or errors identified through this process result in a report being returned to the relevant force for validation or correction. We are aware that a number of police forces have analysed data on youth diversion, often in conducting evaluations of new approaches to the delivery of pre-court disposals.

Youth Justice Services (YJSs)

YJSs receive data from the police on children who are diverted, though we are aware that a high number of YJSs report that they do not receive data from the police on those children who receive an 'on the spot' community resolution. YJSs gather additional data on diverted children, especially as a result of the assessment of strengths and needs they conduct (see changes section below), and on the case work and programmes children are involved in as part of the YJS's diversion scheme.¹⁰ YJSs record this data on their assessment and case management systems.¹¹

Until recently, YJSs have not been required to collate data on diverted children and return it to the Youth Justice Board. However, we are aware of multiple YJSs that do collate and analyse data on diverted children to share with local partners and to inform decision making within their children's services departments. We are aware that, like the police, a number of YJSs have analysed data on youth diversion as part of evaluations of their youth diversion schemes.

Home Office

As indicated, youth diversion data forms part of the wider set of data the Home Office records and collates on crime outcomes. They report annually on all investigative case outcomes that have been assigned to notifiable offences recorded, based on the crime outcomes framework adopted in April 2013. The Home Office also publishes quarterly outcomes tables in the Crime Outcomes in England and Wales Statistics Collection.

Crime outcomes data are published alongside justice outcomes data from the Ministry of Justice (MoJ) and the Crown Prosecution Service (CPS) in the Criminal Justice System Delivery Data Dashboard. None of the metrics in the dashboard relate specifically to youth diversion, though youth diversion data forms part of the data sets used in metrics about crime outcomes.

Youth Justice Board (YJB)

The YJB has data recording requirements for YJSs in England and Wales. The data recording requirements, set out annually in the YJB Data Recording Requirement guidance describes how YJSs ought to submit data to the YJB and provides the detail around what is collected and how it is recorded. Up until 2023/24's YJB Data Recording Requirement (see below), no youth diversion data was required to be submitted to the YJB.

9 Home Office (2013). *Home Office Counting Rules For Recorded Crime*. Available at: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/182069/count-intro-april-2013.pdf

10 Youth Justice Board. (2023). *Final Report: Prevention and Diversion Project*. Available at: <https://yjresourcehub.uk/research-articles-reports-and-briefings-thematic-broader-research-inform/item/1077-final-report-prevention-and-diversion-project-youth-justice-board-for-england-and-wales-february-2023.html>

11 Youth Justice Board. (2023). *Data Recording Requirements for Youth Justice Services in England and Wales*. Available at: https://yjresourcehub.uk/images/YJB/YJB_Data_Recording_Requirements_YJS_2023_2024.pdf

Changes to youth diversion data

It is important to note there are two significant amendments in the process of being implemented that will change youth diversion data. These are change projects are being led by the YJB. They are:

- Changes to youth diversion assessment: His Majesty’s Inspectorate of Probation (HMIP), which inspects YJSs, has been of the view that all diverted children should be assessed via a full ASSET Plus assessment. YJSs and the YJB have not agreed, arguing that a full ASSET Plus is a disproportionate use of YJS staff time and that it is an inappropriate process to subject diverted children to given it can be a multi-hour intrusive process which carries significant risks of stigmatising contact. Recognising, however, that some form of assessment is necessary, the YJB is developing and piloting a new, slimmer version of ASSET Plus - the ‘Prevention and Diversion Assessment’.
- New YJB Data Recording Requirement: The 2023/24 guidance¹² states that “The recording of all YJS diversion work is mandatory. This is to provide a more complete picture of YJS caseloads and a better understanding of the type of diversionary work being undertaken by YJSs. There are two types of informal Out of Court Disposals that YJS should be recording as diversion, neither of which result in a criminal record for the child: 1. Community Resolution (CR); 2. No Further Action (NFA).” This will also allow the YJB to provide YJSs with a measure of effectiveness— the number of children diverted who, within 12 months of the diversion, are diverted again, cautioned or convicted.

ASSESSING YOUTH DIVERSION DATA

Methodology

In order to assess current and future youth diversion data, we conducted semi-structured interviews with a range of individuals with expertise in the subject. This included three representatives of the police, two YJS representatives, two representatives from the YJB, and four academics/data analysts who have recently conducted or are conducting analysis using youth diversion data. We have also sought to internally verify our findings from these interviews with our own experts in youth diversion and have conducted a limited literature search.

Findings

There are differing views about the principle of filling in the youth diversion data gap

Part of the assumption behind the project is the view, stated in our own work and in other organisations’ reports, that there is a youth diversion data gap that needs to be filled at a national level. Furthermore, there has been an unarticulated assumption, certainly when it comes to our work in this area, that this gap has been the result of neglect, under-prioritisation of youth diversion or considerations around the overall data burdens imposed by the YJB on YJSs.

However, we heard that this has not necessarily been the case. Some people we spoke to strongly suggested that the data has not been collected on diverted children *purposefully*. As part of the YJB’s commitment to a *Child First youth justice system*,¹³ there has been a two-fold concern when it comes to youth diversion data: (i) that the collection of data on diverted children may lead to more stigmatising contact between the child and the justice system; and (ii) data collection may be part and parcel of an overall codification of youth diversion, which may make it more informal, less discretionary and less effective. While we also heard, sometimes from the same people, a recognition that a lack of youth diversion data was hampering its wider use and its political and public acceptability, the concern about ‘letting the light in’ to this area was forcefully made. This view is being expressed with explicit reference to the recent history of a net-widening, ‘catch and convict’ culture that previously

12 Ibid

13 Youth Justice Board. (2022). *Child First Guide*. Available at: <https://yjresourcehub.uk/legislation-and-guidance-documents/item/1043-a-guide-to-child-first-youth-justice-board-for-england-and-wales-october-2022.html>

drove up the volume of children coming through the youth justice system in the late 1990s and early 2000s.

On the other hand, we also heard clear voices which suggested that the new planned collection of data by YJSs, and the assessment system, is an unavoidable step (given the prevalence of diversion as the main disposal by youth justice services) and, more positively, that these moves are likely to be largely beneficial. We heard, for example, about research using youth diversion data which seemed to underline and strengthen claims for diversion's efficacy, not just in reducing further offending but also as a better response to phenomena like anti-social behaviour. Moreover, interviewees highlighted data analysis conducted by YJSs which seemed to show its positive role in addressing racial disparity. In addition, we heard people express the view that this would help YJSs and the YJB to tell a 'good story' about diversion and youth justice more generally. Moreover, there was broad, though not universal, support for the view that knowing more about youth diversion should help broader arguments about strengthening and funding youth diversion in the medium and long term.

Data transmission between the police and the YJSs is relatively routinised, except around 'on the spot' community resolutions'

We heard high levels of confidence and satisfaction that data is being transmitted by the police to YJSs on diverted children. This data allows decision making to happen and, where the child is diverted, for the YJSs to start engaging with the child. There has, historically, been issues around the speed of the referrals and the accompanying data to make the referral and the decision but we heard general satisfaction with this.

We heard that some YJSs receive data on all diverted children, including those subject to 'on the spot' community resolutions, but we are aware that is not standard practice across the country. The new Child Gravity Matrix (a triage tool published by the National Police Chiefs Council (NPCC) to support decision making for officers, to assist in deciding the most appropriate outcome or disposal for those children and young people, under the age of 18 years who offend), which has been published during the course of this research,¹⁴ suggests that where a community resolution is being considered, "Referral to YJS is encouraged." It is not specified in this guidance what information needs to be supplied in this instance. Existing case management guidance for YJSs on pre-court disposals suggests that, when community resolutions are being used, that, "it is not mandatory for the police to inform you (YJSs) that a Community Resolution has been given as an outcome. However, it is good practice to set up a local protocol to be informed of all such outcomes, in order to offer voluntary preventative intervention and guard against inappropriate disposals."

There are data quality issues with youth diversion data, especially data gathered on children diverted by the police into 'on the spot' community resolutions

We heard a range of concerns about data gathering by the police on diverted children. There could often be missing personal data which makes retrospective analysis challenging. We heard some concern that personal data around ethnicity is sometimes gathered in informal ways that do not meet National Statistics recording standards and is also not always recorded. This was highlighted in a recent HMICFRS report on serious youth violence which found that, "police in many forces still weren't recording ethnicity data well enough."

However, we also recognise, and heard, that part of the problem is a simple issue of capacity in policing, especially due to the reductions in the number of police staff (although numbers are rising again).¹⁵ This is, in part, because of the relative importance of youth diversion in comparison to the more harmful crimes and incidents that the police have to deal with. 'On the spot' community reso-

14 NPCC. (2023). *Child Gravity Matrix*. Available at: <https://www.npcc.police.uk/SysSiteAssets/media/downloads/publications/publications-log/criminal-justice/2023/child-gravity-matrix-v2.2--september-2023.pdf>

15 Home Office. (2023). *National statistics: Police workforce, England and Wales: 30 September 2022*. Available at: <https://www.gov.uk/government/statistics/police-workforce-england-and-wales-30-september-2022>.

lutions, for example, tend to involve a police officer asking a child to apologise to someone for a very low-level incident. Onerous data gathering on such a diversion is likely to be both a disproportionate use of police time and involve the child in more stigmatising contact with the police than the incident warrants.

There is strong support for the adoption of Outcome 22 as a positive outcome which would result in all police using it to record youth diversion accurately

Our interviewees, and additional conversations we have been privy to in the course of our work on youth diversion, strongly suggest that the Home Office need to ensure Outcome 22 is made a positive outcome (i.e. that it counts as a detection). Latest NPCC guidance strongly supports the use of Outcome 22 for informal diversion. This would merely reflect and record the reality of what is happening on the ground: effective referral by the police of children into diversion in which the YJSs are engaging with children as a response to a crime/incident.

Moreover, as the recent thematic inspection by HMICFRS suggests, more needs to be done to train the police in outcome 22's use. The inspectorate report found that "in more than one force, including some in senior leadership roles, (police officers) told us they could only use outcome 22 when the suspect had admitted the offence (as is the case for a police caution). This is incorrect... the suspect doesn't have to accept responsibility for the offence for police to use outcome 22."¹⁶ The report goes on to note that this has a particular significance for young black men, who are less likely to make admissions and more likely to give 'no comment' interviews due to wide mistrust in the police. As the report concludes, "officers' flawed understanding of outcome 22 may disproportionately affect young people from ethnic minority backgrounds and contribute to these young people being more likely to be prosecuted than their White counterparts."¹⁷

The YJB's changes to youth diversion data will build the national picture (though it will leave some gaps)

Despite differing views on the principle of collection data on youth diversion nationally, and continuing concerns about the length of the proposed slimmer ASSET Plus assessment, we heard overall strong endorsement that the steps the YJB are taking will fill substantial gaps in the youth diversion data. There is also strong support for the measure of effectiveness that the YJB have developed. In the fullness of time, it seemed clear to most we interviewed that via the new data recording requirements, we would know the volume of diversionary activity, which disposals are being used and in what volumes, the demographics of children who are diverted, and for what incidents/linked offences. The use of a standard assessment tool would, over time, build a picture of diverted children, what needs they have and what strengths and assets they have.

We heard from the YJB that they expect to get data in 23/24 on youth diversion and that this will inform developing a truly accurate baseline for areas in 24/25 but they did not expect to publish a complete set of data and baseline on youth diversion until 2026 (for the year to March 2025). This is, in part, because they expect the data in 23/24 to be of variable quality and completeness and recognise a range of changes are having to be made to YJS case management systems.

A small number of people noted that these new requirements will leave some diverted children out of the national YJB figures, namely children in receipt of a community resolution where the YJS is not being asked to offer diversionary support/ intervention to the child. It is also the case that little will continue to be known about exactly what support children get while being diverted (e.g. what case work comprises of and what interventions they may be offered).

16 HMICFRS. (2023). *An inspection of how well the police tackle serious youth violence*. Available at: <https://assets-hmicfrs.justiceinspectorates.gov.uk/uploads/inspection-how-well-police-tackle-serious-youth-violence.pdf>

17 Ibid.

Police interest in diversion research and analysis can influence practice

We are concerned to hear that, in one force area, the police's interest in analysing the impact of diversion for adults and children had meant that they had stopped referring some children into diversion delivered by YJSs and had delivered case work and programming themselves. The rationale for this had been that the lack of interoperability between police and YJS data systems made it close to impossible to evaluate the trial in question. Therefore, the police had taken to 'keeping hold' of these cases. In our view, while the police's interest in developing evidence in diversion is laudable, this is likely to have led to a much more coercive and stigmatising environment for those children.

There will remain an evidence gap in youth diversion

While the evidence for diversion of children is strong and well-evidenced, there will remain a significant gap within England and Wales: what type of diversion works better and with whom? There remains no clear consensus on what precise strategies/models of diversion work best, as there is a lack of scheme/site specific and/or comparative evaluations in England and Wales. However, the collection of data on diverted children at a local and a national level, and data on those children within the new assessment tool, will open up the possibility for new research in these areas.

CONCLUSIONS AND RECOMMENDATIONS

Overall, we heard and have taken the view that, the current gaps in youth diversion data do need to be filled. This is with the important caveats around minimising the amount of stigmatising contact children have through diversion, and the possibility that more codification and data collection could lead to tightening of the guidance around which children are diverted, how many times they can be diverted and what they will get (and the conditions around that) in the future. Any approach to the better collection of data on youth diversion needs to be a balance between (i) what is needed to understand the levels and nature of the activity; (ii) the proportionality of its collection; (iii) the need to not over involve children (even to the point of keeping records on them) in the criminal justice system; and (iv) the desire to know more about the justice journeys of children, including where there are children who have been diverted and go on to commit more serious crimes.

Given the strong evidence base behind diversion, and the commitment of the police to Child Centred Policing and the YJB's commitment to a Child First youth justice strategy, we remain of the view that the youth justice system has to accurately and positively represent the evidence-based work it is doing. Where there is no sunlight, there is no transparency. And, while we are firm advocates for youth diversion, more data collection and scrutiny on it may help us understand better who it works for, and whom it does not and why it works for some and not others. We also strongly believe that, once a national picture has been built up of the children being diverted, there will be a much clearer platform for YJSs and the YJB to advocate for additional funding for this vital work.

Based on our findings, we recommend:

- The Home Office make outcome 22 a positive outcome and ensure that police involved in youth diversion fully understand its requirements and how to use it;
- The police should inform their local YJS of any CRs given to children, ensuring that children and their families can be offered (if appropriate) voluntary support;
- The YEF, and others, seek to use the new YJB data collection requirement as a platform from which they can conduct additional, scheme level-evaluations of youth diversion;
- The Ministry of Justice use the new data on youth diversion to explore further its implications on YJS funding and, consequentially, amend the existing funding formula to better reflect the diversion caseload.



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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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