

Inspection Frameworks: Youth diversion and out of court disposals

BACKGROUND

From October 2020 to January 2023 the Youth Justice Board (YJB) undertook a two-year project to better understand prevention and diversion practice and its funding arrangements¹. Key findings from this project concluded that: youth justice services (YJSs) reported that they deliver a significant amount of prevention and diversion work that is not formally captured in any standardised way; and, the benefits of partnerships and shared visions with other services, including police, health, education, children's services, courts and wider partners, were consistently highlighted by YJSs and wider justice stakeholders as being essential for effective prevention and diversion. The YJB also found that prevention and diversion practice:

*'is leading to positive outcomes for children. The most common data source to measure prevention and diversion is first time entrants. YJSs provided local data that the work is supporting reductions in first time entrant rates and leading to improvements in children's lives.'*²

However, diversion practice is varied and inconsistent. YJSs feel that children are, in some cases, being unnecessarily criminalised due to differing eligibility criteria for access to services and differing responses to offences, including varied application of the use of No Further Action - Outcome 22. There is also a lack of national and local oversight and governance of prevention and diversion work which needs to be enhanced to improve the evidence-base surrounding current practice.

Purpose of the paper

There are a number of bodies and organisations that oversee, monitor and scrutinise the delivery of services in the criminal justice system. This paper will focus on how two bodies inspect the work that YJSs and the police undertake with children who receive diversion or an out of court disposal (OCD), soon to be called out of court resolutions. The bodies responsible for inspecting these agencies are: His Majesty's Inspectorate of Probation (HMIP) and His Majesty's Inspectorate of Constabulary and Fire & Rescue Services (HMICFRS).

Each of these bodies play an important role in ensuring that YJSs and the police are working with children in a safe and effective way. However, there are considerable differences between the various standards, inspection frameworks and data collection approaches required by YJSs and the police, and not all have a specific focus on diversion and OCDs, or even children who offend generally. Practitioners tell us that this means they often find themselves confused by what is expected of them, with their practice endorsed by one inspectorate, yet criticised or not inspected by another.

This paper forms part of the Youth Endowment Fund's work to provide guidance to local leaders on evidence-led diversion. It aims to do the following:

1. Provide an overview of the national inspection frameworks (including joint inspections) that currently exist to monitor the delivery of diversion work undertaken by YJSs and the police.
2. Summarise findings and recommendations from recent inspection reports.
3. Outline recommendations for improvements regarding the types of inspections and how these are undertaken as suggested by police, YJS practitioners and inspectors.

Methodology

In order to meet the aims listed above, we undertook discussions with individuals with expertise in the subject. These included: two representatives of the police, two YJS representatives, one representative from the YJB, four representatives from HMICFRS and one representative from HMIP. We have also sought to internally verify our findings from these discussions with our own experts in youth diversion and have conducted a limited literature search.

Defining youth diversion and out of court disposals (OOCs)

Diversion

The Youth Justice Board (YJB)³ defines diversion as:

'Diversion is where children with a linked offence receive an alternative outcome that does not result in a criminal record, avoids escalation into the formal youth justice system and associated stigmatisation. This may involve the YJS delivering support / intervention that may or may not be voluntary and/or signposting children (and parent/carers) into relevant services. All support should be proportionate, aimed at addressing unmet needs and supporting prosocial life choices.'

When dealing with offences committed by children, the police have a range of diversion outcomes available that avoid criminalising them, as per sections 135-138 of the Legal Aid, Sentencing and Punishment of Offenders (LASPO) Act 2012. These include (there may be variation in local terms used by YJSs and police to describe these outcomes): Community Resolution (out of court disposal); No Further Action; No Further Action – Outcome 22; No Further Action – Outcome 21.

Diversion services (also known as 'diversion schemes' or 'triage') are local approaches developed between the police, YJS and other partners aimed at supporting children who have committed an offence to avoid a criminal record and escalation into the formal youth justice system. This involves multi-agency decision-making of referrals into the diversion service in order to determine the outcome for children, proportionate to their assessed level of need.

Out of court disposals (OOCs)

An OOC does not involve trial or sentencing in a court. Instead, the aim is to limit (where appropriate) the child from future involvement in the criminal justice system, in the best interests of both the child and justice. OOCs are most suited to children who have committed a low-level offence for the first time and who are not suitable for diversion (as outlined above). It is therefore rare for them to be used for more serious offences or with prolific offending.

The current framework, laid out in the Legal Aid Sentencing and Punishment of Offenders Act (LASPO) 2012, involves two statutory and one non-statutory out of court disposal for children – youth caution, youth conditional caution and community resolution (also used in diversion cases).

WHY AND HOW WE INSPECT THE CRIMINAL JUSTICE SYSTEM

There are a number of inspection bodies which monitor the statutory agencies within the criminal justice system, scrutinising prisons, policing, probation and prosecution services. In general terms, an inspectorate focuses on five aspects of an agency's work: its conformity to standards (whether deriving from human rights norms or values or interests); the quality of service it delivers; the quality of its management arrangements; the efficiency with which it operates; and the value for money it offers. By shining a light on these issues, an inspectorate aims to provide those carrying political or executive responsibility - Ministers, parliamentary committees such as the Justice Committee of the House of Commons, senior civil servants, and agency managers - as well as the general public, with an independent means of holding agencies to account and testing whether the services they offer are being delivered appropriately.⁴

Justin Russell, former Chief Inspector HMIP⁵ explains why it is important that statutory agencies are monitored and quality assured :

“Youth offending and probation services can make a big difference to those receiving them and to wider society. More than a quarter of a million people are supervised by them each year. If all these services were delivered well, there would be less reoffending and fewer people being returned repeatedly to prison. The prison population would reduce, and there would also be fewer people living on the streets, and fewer confused and lonely children, with a smaller number taken into care. Men, women and children currently afraid of assault could lead happier, safer lives. These things matter to us all.”

Typically, each inspectorate will inspect an area, force or region by:

- Reviewing files and documentation.
- Examining a representative sample of cases from a particular period.
- Using feedback from questionnaires or surveys (these are sometimes commissioned from private market research organisations).
- Undertaking direct observations.
- Conducting face-to-face interviews (with senior management, operational staff, victims, service users, parents, members of the public and key partners/stakeholders).
- Some will also use self-assessment questionnaires.

NATIONAL INSPECTION BODIES: AN OVERVIEW

This section provides a brief overview of each of the inspection bodies:

His Majesty's Inspectorate of Probation (HMIP): youth justice services inspection

HMIP is the independent inspector of probation and youth justice services in England and Wales. They set the standards used to measure the quality and impact of these services. The standards are designed to drive improvements in youth justice and probation services and include areas such as leadership, partnership working and assessment. The standards were developed in consultation with service providers, based on evidence and updated when necessary. HMIP undertake independent inspections of individual/regional services and produce recommendations for change. All services are rated overall as either 'outstanding', 'good', 'requires improvement' or 'inadequate'.⁶

As well as inspections, HMIP publish research, effective practice guidance and regular thematic reports on key issues in the criminal justice system, conduct Serious Further Offence (SFO) reviews and produce annual reports each year. They also undertake joint inspections with other bodies.

HMIP do not have any regulatory powers; however, there is a clear process in place to monitor a YJS's progress on any improvements that need to be made. Following an inspection, HMIP and the YJS agree an action plan to address the report recommendations. The lead inspector considers the action plan, working with the head of inspection to review this. The lead inspector then sends an acknowledgement letter noting acceptance of the plan or identifying amendments if required. Dialogue is ongoing between HMIP and the YJS to ensure the action proposed is being taken. The action plan is followed up during the next annual inspection when progress is reviewed.⁷

HM Inspectorate of Constabulary and Fire & Rescue Services (HMICFRS): PEEL assessments

PEEL (police effectiveness, efficiency and legitimacy) is the assessment framework used to inspect police forces in England and Wales. HMICFRS use inspection findings, analysis and professional judgment to assess forces across specific areas of policing.

HMICFRS give graded judgments across several core questions set out in the PEEL framework, such as 'How good is the force's service for victims of crime?'. The characteristics are listed beside each core question in the framework and indicate the performance a force needs to demonstrate to achieve a particular grade. These characteristics take account of existing national standards and guidance, College of Policing authorised professional practice, and evidence from research. Each core question is graded as either 'outstanding', 'good', 'adequate', 'requires improvement' or 'inadequate'.⁸

As well as carrying out PEEL inspections, HMICFRS undertake inspections of specific subjects or services, known as thematic inspections. Thematic inspections examine certain aspects of policing in greater depth, identifying problems and good practice, and providing detailed judgments. They also undertake joint inspections with other bodies.

HMICFRS do not have any regulatory powers; however, there is a clear process in place for monitoring a force's progress. They routinely and continuously monitor all police forces to promote improvements in police practice. If an inspector identifies a cause of concern about police practice it is raised with the Chief Constable and the local policing body so that they can take action. After each inspection, HMICFRS undertake follow-up work. This work ranges from formal revisits (for instance, as part of the child protection inspection programme), to offering support to forces in responding to their findings (for instance, in the custody inspection programme). HMICFRS also track the progress that forces have made against the recommendations in their reports.⁹

INSPECTING OOCDS AND DIVERSION FOR CHILDREN

In this section we outline how, in each of the frameworks described above, diversion and OOCDS for children are inspected and provide an overview of recent inspection reports and their findings.

HM Inspectorate of Probation

HMIP's inspection framework has a clearly defined focus on the delivery, practice and oversight of diversion and OOCDS for children:

Out of court disposals

Inspectors look at the assessment, planning, and implementation and delivery of OOCDS for children and young people, and also at the overarching policy and provision for out of court work. Whilst not obvious from this description, this does cover diversion cases and not only OOCDS.

HMIP indicators of good out of court disposal work are as follows:

- 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 youth offending team (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.

Inspection report example¹⁰:

HMIP inspection North East Lincolnshire, September 2022

Ratings:

Overall, North East Lincolnshire YJS was rated as 'Good'. In domain three: Out of court disposals, HMIP inspected 12 cases managed by the YJS that had received an out of court disposal. These consisted of two youth conditional cautions and 10 'outcome 22' disposals. They were rated as:

3. Out of court disposals	Rating
3.1 Assessment	Outstanding
3.2 Planning	Good
3.3 Implementation and delivery	Outstanding
3.4 Out of court disposal policy and provision	Outstanding

Key findings:

- Practitioners recognised, assessed, and planned for children's diversity of needs. They tailored interventions and delivered sessions to support engagement and understanding.
- Practitioners were able to identify, assess, plan, and respond to risks to and from the child.
- There is a comprehensive out of court disposal policy in place and partners are committed to prioritising diversion and a child-first ethos.
- Children who give 'no comment' and no admission of guilt in police interviews are still eligible for diversion.
- Outcome 22 is an option for diversion, enabling the child and their family to receive support and intervention without a formal criminal sanction.
- Effective escalation processes are in place.
- There are arrangements to assess children, make decisions on disposal, and start interventions promptly.
- Children who receive an out of court disposal have access to the same pathways and services as those who work with the youth justice service.
- They complete a workbook which builds on strengths and allows the child's voice to be central.
- The service regularly reviews and evaluates its provision. It carries out internal audits and analysis of data, and is reviewed through scrutiny panels.

Recommendations:

- Contingency planning needs to be more detailed, and practitioners need to identify actions to promote the child's safety, and that of others, if risks change.
- The policy needs to provide more clarity on how long diversion cases remain open and ensure practitioners are aware of this.
- In some cases, there needs to be quicker escalation of concerns to senior managers, to ensure they are raised and addressed with the appropriate services.

HM Inspectorate of Constabulary and Fire & Rescue Services

There are 10 core questions graded in a PEEL assessment¹¹ when inspecting a police force area. These core questions are each supported by characteristics of good performance. Within these 10, there are no questions specific to diversion or OOCs or the policing of children who offend; however, the following questions and characteristics could pick up this kind of activity:

- **3.** How good is the force at preventing and deterring crime, anti-social behaviour and vulnerability?
- **3.2** The force uses problem solving and works in partnership to prevent crime, anti-social behaviour and vulnerability.
- **3.2.4** The force works in partnership with a wide range of other organisations in problem solving, crime prevention and early intervention activity, which is effective and achieves positive outcomes and reductions in demand.
- **3.2.5** The force is undertaking early intervention approaches with a focus on positive outcomes.
- **6.** How good is the force at protecting vulnerable people?
- **6.1** The force understands the nature and scale of vulnerability. (This includes all types of vulnerability e.g. older people, hate crime, mental ill health, domestic abuse, children, child sexual exploitation, modern day slavery and human trafficking etc.)
- **6.1.2** The force collects victim feedback on a regular basis, including through partner agencies, and use this to improve services both at an organisational and individual level.
- **6.2** The force provides ongoing safeguarding and support for vulnerable people including those at risk of criminal exploitation.
- **6.2.2** The force is good at recognising and dealing with harm including hidden harm (evidenced through the number of victims identified and safeguarded by police), sharing information about vulnerable victims/groups with partner agencies and this prompts appropriate action/support.
- **6.2.3** The force understands how it uses the powers available to best protect and safeguard vulnerable people and victims and makes sure they are used when appropriate.

Another place diversion and OOCs may come to the attention of HMICFRS inspectors is within the newly included victim service assessment¹² which was introduced to the PEEL assessment in 2021/22 to give a view of the force's performance from the perspective of the victim. In his most recent Annual Assessment of Policing in England and Wales¹³, His Majesty's Chief Inspector of Constabulary noted that on too many occasions, victim service assessments found that forces do not always give victims an adequate level of service. Forces not consulting with victims on the use of OOCs, such as cautions and community resolutions, was highlighted as an example of this.

Unlike the HMIP reports, PEEL assessments do not have a specific section of their framework focused on children who offend but references to police work on this topic were found throughout report examples. In the case studies below, when providing a summary of the work of a particular force, the search terms, 'children', 'diversion', 'divert' and 'OOCs' were used to locate the most relevant findings.

Humberside Police PEEL inspection 2020/2021

HM Inspector's observations: In relation to the overall findings from an inspection of Humberside Police, one of these was relevant to the policing of children receiving diversion or OOCs:

'The force has a well-established neighbourhood policing model, which is underpinned by its effective partnership working: The force has continued to develop its neighbourhood policing model since our last inspection. Neighbourhood policing is valued by the force. The force has effective partnership working to tackle local problems. I am also pleased to see the value that the force places on early intervention. This is important in supporting children and young people to divert them away from offending.'

Reducing crime assessment: This narrative assessment in an inspection report contains themes that underpin a force's ability to reduce crime effectively which, taken together, allow an assessment of the extent to which the force is doing all it can to reduce crime.

In their inspection, Humberside Police force was found to have **a clear focus on preventing crime and prioritises early intervention to divert young people away from offending.** Inspectors found the force had introduced good and innovative practice to solve local problems and works with other organisations to prevent crime and anti-social behaviour

Preventing crime and anti-social behaviour: Humberside Police force was rated 'outstanding' in this area of policing; the report includes a number of references to their work to divert children:

The force has excellent leadership and governance in place for effective prevention and deterrence. The force has a clear priority to provide outstanding neighbourhood policing to prevent crime and deter criminals. Prevention and deterrence of crime are seen as the responsibility of everyone within the force, and not just neighbourhood police.

The force uses problem-solving policing and evidence-based practice in its prevention approach. The force has a detailed understanding of its crime, anti-social behaviour, and vulnerability demand. It seeks to tackle this through its problem-solving work with partner organisations and the community. Officers seek to intervene early and prevent people becoming involved in crime. However, when crimes are committed, the force is proactive in arresting those who commit crimes and providing an appropriate outcome for victims. During the inspection, inspectors identified several examples of early intervention and good practice to prevent crime, anti-social behaviour and vulnerability.

Areas for improvement: As Humberside Police force was rated outstanding in how they prevent crime and anti-social behaviour the report did not include any suggested areas of improvement in this area. However, there were some concerns highlighted in the victim assessment section of the report. Whilst these were not specific to children, it does tally with some of the recommendations from HMIP reports and the decision processes followed when deciding which outcome is appropriate;

On occasion, the force isn't using the appropriate outcome or obtaining an auditable record of victims' wishes. The force should make sure it follows national guidance and rules for deciding the outcome of each report of crime. In deciding the outcome, the force should consider the nature of the crime, the offender and the victim. And the force should show the necessary leadership and culture to make sure the use of outcomes is appropriate.

HMICFRS thematic inspection of how well the police tackle serious youth violence, March 2023

Findings:

This report examined how well police address serious youth violence to reduce violent crime involving young people (particularly between the ages of 14 to 24 years). It aimed to answer three questions, two of which are relevant to this paper:

How well do police use their powers of enforcement to reduce serious youth violence, and do they understand racial disproportionality?

Inspectors looked at the use of Outcome 22 which ‘involves the suspect being diverted to a programme intended to reform them and prevent future offending’. They found that in some circumstances its use was appropriate. They also found that forces were starting to use this option in relation to serious youth violence, but some officers had a flawed understanding of it, which undermined its use in those forces. For example, officers in more than one force, including some in senior leadership roles, told inspectors they could only use outcome 22 when the suspect had admitted the offence (as is the case for a police caution), which is incorrect. Although police must be able to show it isn’t in the public interest to prosecute, the suspect doesn’t have to accept responsibility for the offence for police to use outcome 22. This may disproportionately affect young people from minoritised ethnic groups and contribute to them being more likely to be prosecuted than their white counterparts.

Recommendation

By 31 March 2024, Chief Constables should make sure their officers are trained in the use of Home Office crime Outcome 22.

How well do the police work with partner organisations to take a public health approach to serious youth violence?

Inspectors found that processes and systems hindered effective diversion of children: in one force, a senior officer recognised that diversion should form part of the safeguarding plan for any young person charged with violent offences, but the force was poor at doing so. Inspectors suggested that the risk assessment process on the force’s case management system should prompt this consideration, but the system wasn’t programmed to do so.

Inspectors saw benefits in intelligence sharing and the provision of preventative and diversionary services where YJSs, police and Violence Reduction Units (VRUs) engaged with each other effectively. However, there were some examples where they found ineffective partnerships, for example, in one area, the VRU was focused primarily on community based early prevention, while the YJS mostly focused on children who had already come to the attention of the police. As a result, the work of both organisations appeared to have little co-ordination.

Inspectors found that where police officers are seconded to youth justice services, they play a useful role in sharing intelligence and information between partners. Generally, they found that police carried out enforcement activities that supported the work of partner organisations. For example, in the Metropolitan Police, there is a dedicated custody suite where staff from the charity Bounce Back can engage with young people and talk to them about employment opportunities. They also found examples of police working effectively with YJSs to provide a range of diversionary services. These were provided at various points in the justice process, including when considering alternatives to prosecution.

This section of the report included no recommendations to improve practice.

JOINT INSPECTIONS

A brief history

On several occasions from the late 1990s consideration was given to merging HMIP with one or more of the other criminal justice inspectorates. In particular, during 2005 and 2006, plans were developed by the government for the merger of the then five criminal justice inspectorates: HMI Probation, HMI Prisons, HM Inspectorate of Constabulary, HM Inspectorate of Court Administration (which no longer exists) and HM Crown Prosecution Inspectorate into a new single inspectorate covering criminal justice issues. However, in October 2006 the Government decided, in the context of the passage of the Police and Justice Bill (which was to include the necessary legislation), not to proceed with the merger. Instead, the Chief Inspectors of the five inspectorates agreed with criminal justice Ministers to work together more closely on joint inspections and, in particular, to develop an annual Joint Inspection Plan. Joint inspections are now a major area of work for all of the inspectorates.¹⁶

Criminal Justice Joint Inspection (CJJI)

The CJJI is a product of long-standing cooperation between the four criminal justice inspectorates (of Constabulary; the Crown Prosecution Service; Prisons; and Probation) which was formalised by the Police and Justice Act 2006.¹⁷ They work together to address issues that involve more than one criminal justice agency and have a direct impact on the public who use the justice system. Joint inspections provide a unique focus on:

- Systemic issues within the criminal justice system (CJS) as a whole.
- Identifying and driving cost from the system.
- Addressing risks and public safety.
- Looking at the system end-to-end and the role individual agencies play.
- Universal issues, standards and constraints within the CJS.
- Public reassurance and confidence.

The CJJI focuses activity around four high level business processes (community safety; bringing offenders to justice; offender management; and custodial conditions) and three cross-cutting issues (victim and witness experience; equality and diversity; and achieving value for money and efficiency).

The CJJI programme delivers two main types of inspection:

1. Core programmes – a series of localised inspections each year on the same core subject (e.g. inspection of police custody conditions).
2. Joint thematic inspections – usually a one-off bespoke inspection visiting several localities to contribute to a single final report on a thematic issue (e.g. rape investigation and prosecution).

See Annex A for the 10 principles of CJJI inspections

Types of joint inspections

There are a few types of joint inspections that exist:

- Full joint inspection (FJI)
- Joint Targeted Area Inspection (JTAI)
- The Joint Inspection of Child Protection Arrangements (JICPA)
- Joint Thematic Criminal Justice Inspections

Below we describe each and whether or not diversion or OOCs for children are included in this type of inspection.

Full joint inspections

The Full Joint Inspection (FJI) is undertaken in six local authority areas per year, five of which are normally in England and one in Wales. It focuses primarily on those areas where there is cause for concern about performance. This is determined following analysis of information received from the YJB, intelligence gained from other inspections and publicly available data, and through consultation with other inspectorates via quarterly 'Information Bank' meetings. Each year, at least one area with strong reported performance is inspected within the total of six areas.

Notice periods for full joint inspections

Government policy requires inspections to be undertaken as unannounced or with very short notice. Work should be inspected 'as is' and with the minimum of preparatory overheads, rather than as the inspected body 'would like it to be'. HMI Probation leads the FJI programme. Partner inspectorates covering health, children's social care, education and training, and police are full members of the inspection team and contribute to inspection judgements. In England, this is HMI Probation, Care Quality Commission, Ofsted and HMI Constabulary. In Wales, this is HMI Probation, Healthcare Inspectorate Wales (HIW), the Care and Social Services Inspectorate Wales (CSSIW), Estyn and HMI Constabulary.¹⁸

Given that these types of inspections are led by HMI Probation (and therefore are based on their approach to inspection and their framework), diversion and OOCs are part of every full joint inspection. Below is an example of a recent full joint inspection report:

Full joint inspection report example:

Full joint inspection of youth justice services in Suffolk, January 2023

Ratings:

Overall, Suffolk YJS was rated as 'Requires improvement'. In domain three: out of court disposals, HMIP inspected 35 cases managed by the YJS that had received an out of court disposal. These consisted of three youth conditional cautions, six youth cautions and 26 diversion code cases. They were rated as:

3. Out of court disposals	Rating
3.1 Assessment	Inadequate
3.2 Planning	Requires Improvement
3.3 Implementation and delivery	Requires Improvement
3.4 Out of court disposal policy and provision	Requires Improvement

Recommendations:

In their report HMIP made nine recommendations that they believe, if implemented, will have a positive impact on the quality of youth justice services in Suffolk. These recommendations were specific to each local agency:

The Suffolk Youth Justice Service should:

1. improve the analysis and quality of assessments to ensure an accurate understanding of children's desistance, safety and wellbeing needs, and the risk of harm that they pose to others;
2. develop the quality of planning activity so that it is effective in safeguarding children, protecting victims, and coordinated with other partnership plans;
3. review the use of YJS police officers as case managers and ensure appropriate training for YJS police staff in relation to safeguarding practice.

The Director for Children and Young People should:

4. ensure concerns about children referred from the YJS to the children's social care multi-agency safeguarding hub (MASH) are progressed in line with child protection procedures, in all relevant cases.

Suffolk police:

5. implement an effective flagging system to identify children who are known to and open to the YJS and ensure communication with the YJS is embedded.

The Suffolk YJS board and the Office for the Police and Crime Commissioner should:

6. review the funding arrangements to ensure the YJS can meet statutory responsibilities effectively as well as delivering quality diversionary interventions.

The Suffolk YJS Partnership Board should:

7. prioritise access to relevant partnership data and information to facilitate strategic understanding and analysis at board level, utilise this to complete effective needs assessments, and ensure this is translated into targeted service delivery which meets the needs of children;
8. improve all children and young people's chances of success in education, training and employment by making better use of shared data, increase the proportion of children who receive their full entitlement to education, significantly reduce the number of children who are not in education, employment or training (NEET), and consider the importance of a dedicated education resource to achieve this;
9. improve understanding of the needs and outcomes for diverse groups of children, including girls, children in care, and those from black, mixed heritage and minority ethnic groups.

Joint Targeted Area Inspection (JTAI)

A joint targeted area inspection (JTIA) is an inspection of the multi-agency response to children and their families who need help in a local authority area in England. JTAs are carried out by inspectors from:

- Ofsted;
- the Care Quality Commission (CQC);
- His Majesty's Inspectorate of Constabulary and Fire & Rescue Services (HMICFRS).

The agencies within the scope of this inspection are the police, children's social care, education and relevant health services. From our research it does not appear that this type of inspection has previously explicitly included children who have received diversion or OOCs.

The Joint Inspection of Child Protection Arrangements (JICPA)

A joint inspection of child protection arrangements (JICPA) is similar to JTAI inspections in England, but is specific to services in Wales. The JICPA involves several other inspectorates:

- Care Inspectorate Wales (CIW);
- Health Inspectorate Wales;
- Estyn; and
- HMI Probation.

JICPA follows a theme for each inspection. For example, in December 2019 the services in Newport were inspected on how effectively they keep children safe under the theme child exploitation. From our research it does not appear that this type of inspection has previously explicitly included children who have received diversion or OOCs.

Joint Thematic Criminal Justice Inspections (JTCJI)

These types of inspections are usually a one-off, bespoke inspection visiting several localities in quick succession to contribute to a single final report on a thematic issue. Joint thematic inspections are "singly-led but jointly owned" - each work stream in the joint programme is allocated to a 'lead inspectorate' who takes responsibility for its planning, management and delivery and subsequently for report authoring and publication. Other inspectorates involved provide (at their expense) inspection team members and resources, make written contributions and agree and 'own' the final report and any recommendations. The final report is published in the name of all inspectorates involved and signed-off by each participating Chief Inspector.¹⁹

In March 2018, HMIP and HMICFRS conducted a joint thematic inspection on the use of out of court disposals in the youth justice system²⁰. While subsequent JTCJI inspections have not focused on this area, the Chief Inspector of Probation's Annual Report on the inspections of youth offending services in 2022²¹ gave prominence to diversion and OOC practice.

Here we summarise some of the key findings and recommendations from both reports, as well as outline any recent developments. These are grouped under the following headings:

- Data and monitoring
- Guidance and processes
- Assessment

Data and monitoring

In the 2018 joint thematic inspection it was recommended that the Ministry of Justice (MoJ) and the YJB should: include community resolutions in criminal justice system reoffending statistics, and evaluate their effectiveness in reducing offending and improving outcomes for children.

The 2018 joint thematic inspection also recommended that Chief Constables should make sure that referrals to YJSs are sufficiently timely to meet the needs of victims for speedy justice and achieve the objectives of out of court disposals; and make the YJS aware of all community resolutions given by the police.

In the 2022 Annual Report²², the Chief Inspector of Probation highlighted that despite being five years since HMIP recommended that the MoJ publish national data on the number and effectiveness of this sort of OOCd, the information is still not available, meaning, little reliable national or local data is available on what proportion of children complete the (voluntary) interventions recommended by local OOCd panels or come back to the attention of a local YJS because of further offending.

More recently, some of this lack of data has been rectified by the YJB as part of their new Data Recording Requirement, in which the 2023/24 guidance²³ states:

“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).”

These improvements will 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. Whilst this is a welcome addition, CRs given to children that do not include a referral to the YJS may not be captured as the police do not always share these outcomes with their local YJS.

Guidance and processes

In 2018, the inspectors highlighted that OOCd decision-making was usually taken jointly with the police and YJS, and often in a decision-making panel. Whilst this remained the case in 2022, the Chief Inspector of Probation highlighted that inspectors had observed a range of practices for determining the most suitable outcome following an offence by a child. Inspections had noted that an increasing number of children were dealt with through out of court disposals, but decision-making processes were designed locally and there was no clear national template. In some YJSs, case managers had no knowledge about a case until it was allocated to them, after the disposal decision had been made.

The 2022 report goes on to raise wider concerns about the limited and outdated guidance for this work, stating that this has resulted in wide variation in their application across England and Wales with significant differences in the way they are deployed. The report noted that across areas there are differences in the options available to YJSs; differences in the language and terminology used; differences in policing practices and YJS policy and provision; differences in determining which OOCd might be most suitable and why; a lack of data on or analysis of their impact, effectiveness and use; and inconsistent application of the youth gravity matrix in deciding a child’s eligibility for an out of court disposal.

In the last two years there has been a great deal of progress to address inconsistent application and the lack of national guidance:

- In 2021, the Prevention and Diversion Project, funded by the National Probation Service (NPS) and jointly commissioned with YJB and Association of YOT Managers (AYM), developed a shared definition of prevention and diversion;
- In 2022, the National Police Chiefs’ Council (NPCC) reviewed its guidance on the use of community resolutions and Outcome 22;

- In 2023, an updated and renamed Child Gravity Matrix²⁴ was published by the NPCC. The matrix is a triage tool to support decision making and to assist in deciding the most appropriate outcome or disposal for children who offend. This updated matrix reflects the breadth of options available to the decision maker, both statutory (caution, conditional caution or prosecution) and non-statutory (community resolution, deferred prosecution, deferred caution, voluntary diversionary activity).
- In 2023, the YJB will publish its new 'Case Management Guidance on OOCDS and Diversion' which will act as national guidance for practitioners delivering this work across England & Wales.

Assessment

In the 2018 joint thematic inspection it was recommended that the YJB 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.

In the 2022 annual inspection report, the Chief Inspector of Probation noted that in too many instances the YJS had incorrectly classified the child's level of safety and wellbeing needs and the risk of serious harm they posed to others. This was in part linked to the use of locally developed assessment tools for OOCDS and the variation in both the quality of the tools themselves and how well they were completed, particularly in the depth of analysis and consideration of children's safety and wellbeing and the risks they may present to other people. However, the 2022 annual report did recognise an improvement in the quality of assessment, planning and delivery for OOCDS compared to previous annual reports which had noted consistently poorer assessment of OOCDS work when compared to statutory orders.

Currently, the YJB are in the process of developing a specific Prevention and Diversion Assessment Tool to address these concerns. A draft version was piloted by three services across England and Wales and their feedback used to further refine and develop the new tool. Use of the new assessment tool will be a mandatory requirement, as part of the terms and conditions of the YJB grant, for suitable cases from April 2024.

INSIGHTS AND RECOMMENDATIONS

Below we summarise discussions with practitioners (police and YJS), inspectors and other experts in this field to learn more about how inspections inform their agency's work and any areas of challenge. These are grouped by the type of the inspection they are referring to:

Agency specific inspections (PEEL & HMIP youth)

Although the scoring/ratings for each of the inspectorates are similar, the distinct inspection frameworks mean it is difficult to compare one inspectorate's work with another. This is not surprising due to the differences in responsibilities of each organisation but, given how closely YJS and police must work together to deliver effective diversion and OOCs for children, the use of joint inspections is key in scrutinising this practice.

Practitioners told us that they have a lack of understanding of how other inspectorates operate and what is expected of the agency they are inspecting. They would like to learn more in order to better understand the regional challenges and be aware of good practice which may benefit their work with children and local partners. Additionally, some practitioners said a poor inspection of an organisation they partner with can impact their work, such as a lack of resources and staffing.

Practitioners reported that typically they responded to recommendations made by the inspectorate for their organisation, as opposed to those made by other inspectorates. It matters that the findings and recommendations are specific to them and their work. For example, local areas do not feel bound by recommendations made in thematic inspections as much as they do by recommendations made in their inspection report.

If during an inspection concerns are highlighted about another organisation, some inspectors cannot make a recommendation on behalf of their inspectorate or that organisation. The inspectorate can 'have a word' with them to raise any concerns. However, this does not appear to be an entirely transparent process and the outcomes are often unknown.

Linked to the above, effective partnership working is inspected by each inspectorate but rarely are there any specifics on which agencies/organisations they are referring to. It also lays the responsibility to improve these relationships only on the agency that is being inspected at that time.

OOC leads and youth justice police officers do not always feel their work is captured in the PEEL assessments. YJSs have a clearer idea of how things are working locally, leaving the police to rely on this to review their practice. Police felt this was due in part to the breadth of police work that HMIC-FRS has to inspect, meaning this work is not always captured (unless it is particularly innovative or serious concerns are raised). It was believed that for Chief Constables, diversion and OOCs are not top of their agenda. Some police felt this would change if they were inspected on it. In addition, the policing of children more generally was highlighted as an area of policing practice that would benefit from more targeted and independent scrutiny.

Full joint inspections

Overwhelmingly in the discussions undertaken across all agencies for this paper, was the view that joint inspections are a useful tool in understanding and scrutinising practice across a local area where partnership working is key. However, these joint inspections can be difficult to achieve: the lead inspectorate can struggle to get the other inspectorates to engage fully and to resource themselves adequately to take part. Furthermore, despite the specificity and ownership of the recommendations made by each inspectorate, these are not always implemented. The reasons behind this were explained to be a lack of resources and difficulties in overseeing and monitoring the large number of recommendations that can be made over the course of an inspection period across a number of inspectorates.

Thematic inspections

Inspectors and practitioners alike find thematic inspections a particularly useful resource for advice

and good practice; they like the focus on distinct areas of practice but would like to know more about how the themes are selected and would like a voice in this process. Again, most of the practitioners we spoke with were unsure how the recommendations are monitored and reviewed.

Based on our discussions, we recommend that:

- Each inspectorate should be able to make recommendations publically in their reports relating to other agencies. These should be followed up by the relevant inspectorate.
- HMIP should undertake another thematic inspection on OOCs and diversion for children due to the significant change in YJS caseloads, YJS and policing practice and policy in recent years. This should be undertaken jointly with HMICFRS and occur once all the new guidance and tools have gone live and are embedded.
- HMICFRS should publish a spotlight report on the theme of OOCs and diversion of children to highlight good practice being undertaken by police forces.
- The policing of children, from arrest to investigation, up until the outcome of a case, should be the topic of a future joint thematic inspection by HMICFRS and HMIP.

ANNEX A

The ten principles of inspection, developed by the Criminal Justice Joint Inspection (CJJI) are:

1. The purpose of improvement. There should be an explicit concern on the part of inspectors to contribute to the improvement of the service being inspected. This should guide the focus, method, reporting and follow-up of inspection. In framing recommendations, an inspector should recognise good performance and address any failure appropriately. Inspections should aim to generate data and intelligence that enable departments more quickly to calibrate the progress of reform in their sectors and make appropriate adjustments.
2. A focus on outcomes. An inspection should consider service provision to users of the services rather than concentrating on internal management arrangements.
3. A user perspective. Inspections should have a clear focus on the experience of those for whom the service is provided, as well as on internal management arrangements. Inspections should encourage innovation and diversity and not be solely compliance-based.
4. Proportionate to risk. Over time, inspectors should modify the extent of future inspection according to the quality of performance by the service provider. For example, good performers should undergo less inspection, so that resources are concentrated on areas of greatest risk.
5. Inspectors should encourage rigorous self-assessment by managers. Inspectors should challenge the results of managers' self-assessments, take them into account in the inspection process, and provide a comparative benchmark.
6. Inspectors should use impartial evidence. Evidence, whether quantitative or qualitative, should be validated and credible.
7. Inspectors should disclose the criteria they use to form judgments.
8. Inspectors should be open about their processes, willing to take any complaints seriously, and able to demonstrate a robust quality assurance process.
9. Inspectors should have regard to value for money, their own included.
10. Inspectors should continually learn from experience, to become increasingly effective. This can be done by assessing their own impact on the service provider's ability to improve, and by sharing best practice with other inspectorates.

ENDNOTES

1. Youth Justice Board (2023). Prevention and Diversion Project – final report. Available here: https://yjresourcehub.uk/images/YJB/Prevention_and_Diversion_Project_Final_Report_YJB_Feb_2023.pdf
2. ibid
3. Youth Justice Board. (2021). Definitions for Prevention and Diversion. Available here: https://yjresourcehub.uk/images/YJB/Definitions_for_Prevention_and_Diversion_YJB_2021.pdf
4. Shute, S (2013). On The Outside Looking In: Reflections on the Role of Inspection in Driving Up Quality in the Criminal Justice System. *The Modern Law Review*, 76, 494-528. Available here: <https://www.jstor.org/stable/41857484>
5. See: <https://www.justiceinspectorates.gov.uk/hmiprobation/about-hmi-probation/about-our-work/why-we-inspect/>
6. See: <https://www.justiceinspectorates.gov.uk/hmiprobation/about-hmi-probation/>
7. HM Inspectorate of Probation. (2018). Probation inspection Guidance Manual. Available here: <https://www.justiceinspectorates.gov.uk/hmiprobation/wp-content/uploads/sites/5/2018/04/Probation-inspection-Guidance-Manual-EXTERNAL-v1.pdf>
8. See: <https://www.justiceinspectorates.gov.uk/hmicfrs/peel-assessments/what-is-peel/peel-assessments-2021-22/>
9. HM Inspectorate of Constabulary and Fire & Rescue Services. (2022) Policing inspection programme and framework commencing April 2022. Available here: <https://assets-hmicfrs.justiceinspectorates.gov.uk/uploads/policing-inspection-programme-and-framework-april-2022.pdf>
10. HM Inspectorate of Probation. (2022). An inspection of youth offending services in North East Lincolnshire. Available here: <https://www.justiceinspectorates.gov.uk/hmiprobation/wp-content/uploads/sites/5/2022/09/North-East-Lincolnshire-YOT-v1.0-1.pdf>
11. See: <https://hmicfrs.justiceinspectorates.gov.uk/publication-html/peel-assessment-framework-2021-22-revised/>
12. See: <https://hmicfrs.justiceinspectorates.gov.uk/publication-html/victim-service-assessment-technical/>
13. HM Inspectorate of Constabulary and Fire & Rescue Services. (2023). State of Policing: The Annual Assessment of Policing in England and Wales 2022. Available here: <https://assets-hmicfrs.justiceinspectorates.gov.uk/uploads/state-of-policing-2022.pdf>
14. HM Inspectorate of Constabulary and Fire & Rescue Services. (2022). PEEL 2021/22 Police effectiveness, efficiency and legitimacy: An inspection of Humberside Police. Available here: <https://s3-eu-west-2.amazonaws.com/assets-hmicfrs.justiceinspectorates.gov.uk/uploads/peel-assessment-2021-22-humberside.pdf>
15. HM Inspectorate of Constabulary and Fire & Rescue Services. (2023). An inspection of how well the police tackle serious youth violence. Available here: <https://assets-hmicfrs.justiceinspectorates.gov.uk/uploads/inspection-how-well-police-tackle-serious-youth-violence.pdf>
16. HM Inspectorate of Probation. (2010). History of HMI Probation. Available here: <https://www.justiceinspectorates.gov.uk/probation/wp-content/uploads/sites/5/2014/03/history-hmi-probation.pdf>
17. See: <https://www.justiceinspectorates.gov.uk/cjji/about-cjji/>
18. HM Inspectorate of Probation. (2016). Framework for Full Joint Inspection (FJI) of youth offending work. Available here: <https://www.justiceinspectorates.gov.uk/hmiprobation/wp-content/uploads/sites/5/2014/02/FJI-Inspection-Framework-v4-England-and-Wales-230216.pdf>
19. Criminal Justice Joint Inspection. (2013). STANDARD METHODOLOGY FOR JOINT THEMATIC INSPECTIONS. Available here: https://www.justiceinspectorates.gov.uk/cjji/wp-content/uploads/sites/2/2014/04/CJJI_StandardMethodology_Mar13.pdf
20. Criminal Justice Joint Inspection. (2018). 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. Available here: <https://www.justiceinspectorates.gov.uk/cjji/wp-content/uploads/sites/2/2018/03/Out-of-court-disposal-work-in-youth-offending-teams-reportb.pdf>
21. HM Inspectorate of Probation. (2023). 2022 Annual Report: inspections of youth offending services. Available here: <https://www.justiceinspectorates.gov.uk/hmiprobation/wp-content/uploads/sites/5/2023/06/Youth-annual-report-2022-v1.0.pdf>
22. ibid
23. Youth Justice Board. (2023). Data Recording Requirements for Youth Justice Services in England and Wales. Available here: https://yjresourcehub.uk/images/YJB/YJB_Data_Recording_Requirements_YJS_2023_2024.pdf
24. National Police Chiefs' Council. (2023). Child Gravity Matrix. Available here: <https://www.npcc.police.uk/SysSiteAssets/media/downloads/publications/publications-log/criminal-justice/2023/child-gravity-matrix-v2.2--september-2023.pdf>



Written by:

Claire Ely

Thanks to:

Youth Endowment Fund

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.

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



This work is licensed under the Creative Commons Attribution-NonCommercial-NoDerivs 3.0 Unported License.
To view a copy of this license, visit <http://creativecommons.org/licenses/by-nc-nd/3.0/>