

Strengthening youth diversion

Summary

Point-of-arrest youth diversion can reduce crime, keep communities safer, cut costs, and create better outcomes for children.¹ Point-of-arrest youth diversion gives young people the chance to avoid both formal processing (either through an out of court disposal or a prosecution in court) and a criminal record, in return for the completion of community-based interventions.

Our previous research identified that, of the 152 Youth Offending Teams (YOTs) in England and Wales, 133 have a point-of-arrest diversion scheme.² However, the recent Probation Inspectorate report on Youth Offending services found an “inconsistent approach across the country” and highlighted that the lack of consistent and specific national funding for diversion places the existence of diversion in “a tenuous position.”³

In this briefing, we call on policymakers to take action to strengthen evidence-led point-of-arrest youth diversion. Specifically, we recommend:

- The Youth Justice Board should publish clear national guidance on effective, evidence based point-of-arrest diversion practice;
- HMI Probation should ensure that the Youth Inspection Framework reflects current best evidence on youth diversion, and the expertise of practitioners;
- The Youth Justice Board should make available more links to good practice and examples of how to run effective youth diversion schemes in their good practice hub;
- The Ministry of Justice should ensure that the funding formulae for the statutory funding contribution to YOTs and the Youth Justice Grant reflects the work done on youth diversion;
- The Youth Justice Board, Police and Crime Commissioners and the National Police Chiefs’ Council should agree a new set of data recording standards and systems to accurately record and publish youth diversion activity.

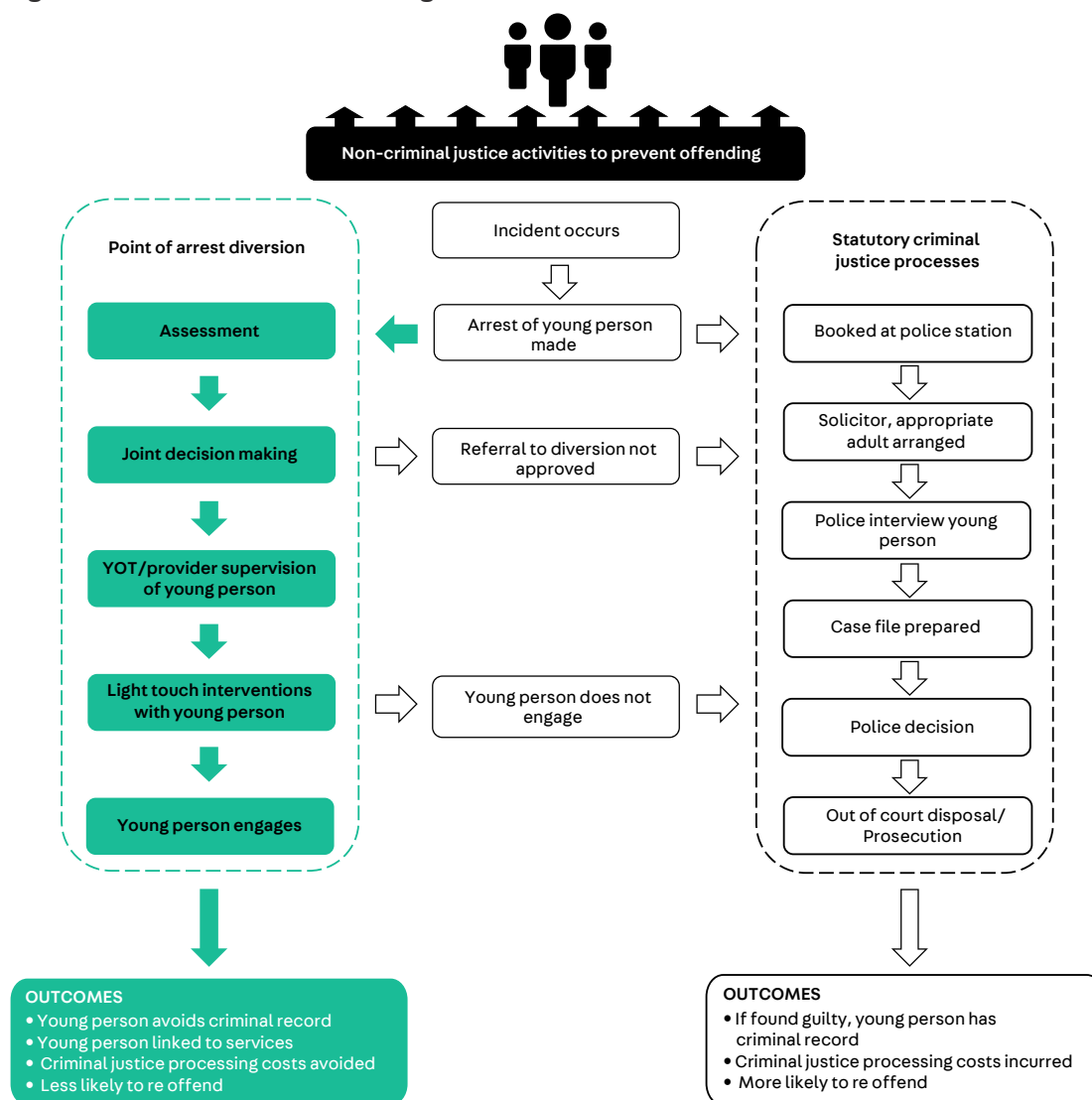
Point-of-arrest youth diversion

What is youth diversion?

Point-of-arrest youth diversion offers a constructive, evidence-led approach to low-level crime committed by those under the age of 18, providing an alternative to the prosecution of children through the youth justice system.

Following a referral from the police or an Out of Court Panel, point-of-arrest youth diversion gives young people the chance to avoid both formal processing (either through an out of court disposal or a prosecution in court) and a criminal record, in return for the completion of community-based interventions.

Figure 1: Point-of-arrest diversion diagram



Point-of-arrest diversion represent 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.

Case study: The diversion of B

B came to the attention of the police and the Youth Offending Team having admitted to an assault on his mother. His case was discussed at the local joint decision-making panel and after reviewing the facts of the case and B’s support needs, he was found to be eligible to engage with interventions to address his behaviour via their point-of-arrest diversion scheme rather than receiving a recordable criminal justice conviction for this offence.

A family support worker met with B and his mum to gain an understanding of the family. The assessment found that B had experienced a family separation, dislocated educational placement and a difficult relationship with his mother. A family support worker worked with B on improving his relationship with his mother. In parallel, the education team challenged the local authority and found a place for B at school.

B completed his interventions and did not receive a formal criminal conviction. B is in education and has apologised to his mum. Both B and his mum have reported that they have a much better relationship with no further incidents of conflict at home.

The evidence base

The evidence shows that point-of-arrest youth diversion can reduce crime, keep communities safer, cut costs, and create better outcomes for children.⁴ Extensive research into ‘delinquent’ and ‘antisocial behaviour’ shows that the vast majority of young people ‘grow out of it’ over time, as they mature and improve their self-control.⁵ However, formal processing by the justice system can knock young people off this natural trajectory of improvement, because this processing “extends and deepens young people’s criminal careers.”⁶ Research consistently shows that young people who were processed by the justice system have higher rates of re-offending than those who were diverted.⁷

Point-of-arrest youth diversion is also more cost effective than standard processing. Diversion avoids immediate costs associated with processing an arrest, conducting prosecution, and running courts. Moreover, as young people who are referred to diversion are less likely to commit further offences, diversion saves short to medium term costs associated with re-offending. Furthermore, point-of-arrest youth diversion saves longer term future costs as unmet needs (such as physical and mental health needs) are identified and addressed at an early stage, before they escalate and become more difficult and costly to manage.⁸

Current youth diversion practice

Of the 152 YOTs in England and Wales, our mapping work identified that 133 have a point-of-arrest diversion scheme. While we found that practice in the 115 YOTs who provided detailed answers to our survey did differ, we also found that, for example, 64% of them ran victim awareness classes and 56% of them enabled victim participation in restorative approaches as part of their interventions. We found that over 50% of schemes reported having either the same or less funding and staff, while many reported that their diversion workload had increased.⁹

The need for a national framework

The new Youth Justice Board National Standards 2019 for Youth Offending Teams now specifically reference the growing significance of point-of-arrest diversion.¹⁰ This is very welcome, and, to build on this, there are number of aspects of the national policy framework that ought to be updated to strengthen youth diversion practice.

YOTs need clearer guidance and good practice examples on point-of-arrest youth diversion

The Youth Justice Board’s National Standards (which YOTs are inspected against) specify that YOTs should run point-of-arrest youth diversion schemes. Our mapping exercise in 2018 found that it is now available in almost every local authority in England and Wales.

However, at present YOTs are not being given the guidance they need to help them do this effectively. The guidance accompanying the standards primarily focuses on the circumstances in which it might be appropriate to use diversion, and do not clearly state how diversion schemes should be best run.¹¹ Furthermore, this guidance covers diversion in sections on out of court disposals. This is liable to create confusion because diversion is best characterised as a distinct approach from out of court disposals, and not as a subcategory within it: although also taking place outside of court, diversion is not associated with a criminal record, unlike other out of court disposals. So although the standards differentiate point-of-arrest-diversion from formal out of court disposals, the accompanying guidance does not.

Additionally, the guidance has unfortunately not been updated recently (although work is currently underway looking at revising the Case Management Guidance, which is very welcome).¹² It is therefore unsurprising that HMI Probation have found such variation in this area,¹³ and our recent research has also found youth diversion being “widely but variably practised”.¹⁴ It is also unclear whether the current standards by which YOTs are inspected are informed by the evidence. For example, recent inspections have criticised some areas for allowing young people to go through point-of-arrest diversion more than once. However, the evidence clearly suggests that, in instances of repeat but low-level offending, young people should have more than one opportunity to take advantage of diversion.¹⁵ Work underway by HMI Probation to review the Youth Inspection Framework represents an important opportunity to address this challenge.

Work is currently underway to look at revising the guidance, which is a welcome opportunity to address these issues. HMI Probation have called for the “development of a national approach to the decision making and scope of out of court disposal scheme”, which this guidance could help define.

There is also not an extensive record of existing inspections specifically focused on this area of practice for YOTs to refer to, and nor is there an extensive catalogue of good practice assembled in one place from which YOTs can draw. Many areas would benefit from the additional guidance and clearer links to good practice to effectively set up and operate their scheme.

- **Recommendation:** The Youth Justice Board should publish clear national guidance on effective, evidence based point-of-arrest diversion practice;
- **Recommendation:** HMI Probation should ensure that the Youth Inspection Framework reflects current best evidence on youth diversion, and the expertise of practitioners.
- **Recommendation:** The Youth Justice Board should make available more links to good practice and examples of how to run effective youth diversion schemes in their effective practice hub.

YOTs need to be funded to deliver point-of-arrest youth diversion

The recent HMI Probation annual report recognises that “young people who are being diverted from the youth justice system...are being dealt with differently to prevent labelling and the other negative impacts of getting involved in the System.” The report states that “data from the last year of inspections shows that in some YOTs these diversion cases now outnumber their statutory cases.”

Yet it also acknowledges that “YOTs are not directly funded to carry out this work.”¹⁶ At present, YOT funding comes from (a) a variety of local partners, (b) two national sources (the National Probation Service statutory funding contribution to YOTs (based on a funding formula which is currently being revised) and from the Youth Justice Board’s Youth Justice Grant), and (c) contributions towards specific projects from Police and Crime Commissioners/offices of Mayors. Locally, National Probation Service, Local Authority, Police and Clinical Commissioning Group partners are required to fund the Youth Offending Service as set out in the Crime and Disorder Act.¹⁷ In terms of the national sources of funding, YOTs are only directly funded to deliver statutory cases, including formal out of court disposals, court sentences and offender management. Therefore, neither of the national funding formulae currently allocate money for the point-of-arrest diversion activity delivered by YOTs. This means that the resource available for point-of-arrest youth diversion is not on a secure or consistent footing. HMI Probation has described this situation as “tenuous”.¹⁸

As the balance of work of YOTs shifts towards diversion work and away from their statutory workload, there is a danger that a falling statutory caseload is misinterpreted as signaling a lower level of activity for YOTs in general. This can create perverse incentives: despite the advantages that diversion presents, conducting more diversionary activity decreases the level of resources for the YOT that are formally linked to statutory caseload, and it also makes it harder to make the case for resource on the basis of activity (e.g. in local conversations with partner organisations), because this diversion work is much more rarely recorded (see below).

There are wider financial pressures on YOTs¹⁹ and a recent survey conducted by the Centre for Justice Innovation highlighted significant and increasing pressures on their capacity to deliver youth diversion.²⁰ The biggest self-reported challenges in the survey included “funding cuts, staff shortages [and] increased demand”.²¹ This pressure on resources, combined with funding challenges, threatens the ability of YOTs to deliver diversion in a sustained and consistent manner. Against a backdrop of falling statutory caseload for YOTs, they have in the words of HMI Probation’s recent report “refocused their resources on diverting young people away from the youth justice system”.²² Given this, it is crucial that diversionary activity that is being conducted is recognised and properly resourced. Funding arrangements should recognise the benefits of effective diversion to the community and to the wider criminal justice system.

- **Recommendation:** The Ministry of Justice should ensure that the funding formulae for the statutory funding contribution to YOTs and the Youth Justice Grant reflects the work done on youth diversion.

There is not a clear ‘picture’ of youth diversion across the country

At present, there is not a clear national picture of what youth diversion activity is being undertaken; the needs and demographics of those who are being diverted; or the impact that it is having. This is perhaps unsurprising given that there are no requirements for YOTs to report statistics on their diversionary activity.²³

Similarly, it is not compulsory for police to record such activity. In recognition of work done by police which does not fall under the category of out of court disposal, another appropriate outcome (Outcome 22) was introduced earlier this year.²⁴ This new outcome code provides an opportunity for police to record diversionary activity, but at present not all forces are using it.

The lack of consistent data collection on diversion means that police and YOTs do not always have their diversion work recognised and it makes it hard to understand the relative diversionary activities of YOTs and the police in an area. It also 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.²⁵

Given the fall in the statutory workload of YOTs in recent years, there is a danger that there is a perception that their overall level of activity is similarly decreasing. (As noted by HMI Probation, it is more accurate to say that resources are being “refocused”²⁶). Taking point-of-arrest youth diversion into account would paint a more accurate and nuanced picture, but unfortunately the data required for this is not consistently available.

- **Recommendation:** The Youth Justice Board, Police and Crime Commissioners and the National Police Chiefs’ Council should agree a new set of data recording standards and systems to accurately record and publish youth diversion activity.

Specifically, this should include the Youth Justice Board supporting YOTs to report on their diversionary activity quarterly, as part of their regular data submissions, and the National Police Chiefs’ Council should encourage police areas to use Outcome 22 to record the work they are doing on diversion.

Conclusion

Point-of-arrest youth diversion can reduce crime, keep communities safer, cut costs, and create better outcomes for children. This area of work has been developed by practitioners from the bottom-up and is now available in almost every local authority in England and Wales. We now call on national policymakers to take action to strengthen youth diversion by promoting clearer national guidance that reflects current best evidence; additional examples of good practice, a funding system that properly reflects youth diversion work; and a new set of data recording standards and systems to accurately record and publish youth diversion activity.

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. Robin-D'Cruz and Tibbs (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>
3. Her Majesty's Inspectorate of Probation (2019), Annual report: inspection of youth offending services (2018-2019): <https://www.justiceinspectorates.gov.uk/hmiprobation/wp-content/uploads/sites/5/2019/10/Youth-annual-report-inspection-of-youth-offending-services-2018-2019.pdf>
4. Centre for Justice Innovation (2017), Valuing youth diversion: A toolkit for practitioners, available at: <https://justiceinnovation.org/sites/default/files/media/documents/2019-02/valuing-youth-diversion-a-toolkit-1.pdf>
5. A small minority of young offenders will go on to be 'life-course persistent offenders' but there is no well-evidenced way of telling at the time whether a young offender will be part of this group. See Moffitt, T (1993). Adolescent-Limited and Life-Course-Persistent Antisocial Behavior: A Developmental Taxonomy, *Psychological Review*, 100 (4), 674-701 and Carlsso, C, Sarnacki, J (2016). *An Introduction to Life-Course Criminology*, London: Sage. and Vincent, G, Guy, L, Grisso, T (2012). *Risk Assessment in Juvenile Justice: A Guidebook for Implementation*. MacArthur Foundation
6. See, for instance, Petrosino A, Turpin-Petrosino C, Guckenberg S (2010). Formal System Processing of Juveniles: Effects on Delinquency. *Campbell Systematic Reviews and Mc Ara L, McVie S (2007). 'Youth Justice? The Impact of System Contact on Patterns of Desistance from Offending'. European Journal of Criminology* 4(3) 315-34.
7. Petrosino A, Turpin-Petrosino C, Guckenberg S (2010). Formal System Processing of Juveniles: Effects on Delinquency. *Campbell Systematic Reviews*.
8. See, Technical note: Using the Centre for Justice Innovation cost avoidance tool in Centre for Justice Innovation (2017), Valuing youth diversion: A toolkit for practitioners, available at: <https://justiceinnovation.org/sites/default/files/media/documents/2019-02/valuing-youth-diversion-a-toolkit-1.pdf>
9. Robin-D'Cruz and Tibbs (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>
10. 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
11. Youth Justice Board/Ministry of Justice (2019) How to use out-of-court disposals: section 1 case management guidance, available at <https://www.gov.uk/government/publications/how-to-use-out-of-court-disposals/how-to-use-out-of-court-disposals-section-1-case-management-guidance>
12. For instance 'Youth out-of-court disposals: guide for police and YOTs' is from 2013. Available at <https://www.gov.uk/government/publications/youth-out-of-court-disposals-guide-for-police-and-yots>
13. Her Majesty's Inspectorate of Probation (2019), Annual report: inspection of youth offending services (2018-2019): <https://www.justiceinspectorates.gov.uk/hmiprobation/wp-content/uploads/sites/5/2019/10/Youth-annual-report-inspection-of-youth-offending-services-2018-2019.pdf>
14. Robin-D'Cruz and Tibbs (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>
15. Centre for Justice Innovation (2017), Valuing youth diversion: A toolkit for practitioners, available at: <https://justiceinnovation.org/sites/default/files/media/documents/2019-02/valuing-youth-diversion-a-toolkit-1.pdf>
16. Her Majesty's Inspectorate of Probation (2019), Annual report: inspection of youth offending services (2018-2019): <https://www.justiceinspectorates.gov.uk/hmiprobation/wp-content/uploads/sites/5/2019/10/Youth-annual-report-inspection-of-youth-offending-services-2018-2019.pdf>
17. s38, Crime and Disorder Act 1998, available at <http://www.legislation.gov.uk/ukpga/1998/37/section/38>
18. Her Majesty's Inspectorate of Probation (2019), Annual report: inspection of youth offending services (2018-2019): <https://www.justiceinspectorates.gov.uk/hmiprobation/wp-content/uploads/sites/5/2019/10/Youth-annual-report-inspection-of-youth-offending-services-2018-2019.pdf>

19. See, for example, Youth Offending Teams: Grants: Written question – 252658 <https://www.parliament.uk/business/publications/written-questions-answers-statements/written-question/Commons/2019-05-09/252658/>
20. Robin-D’Cruz and Tibbs (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>
21. Ibid
22. Her Majesty’s Inspectorate of Probation (2019), Annual report: inspection of youth offending services (2018-2019): <https://www.justiceinspectorates.gov.uk/hmiprobation/wp-content/uploads/sites/5/2019/10/Youth-annual-report-inspection-of-youth-offending-services-2018-2019.pdf>
23. Youth Justice Board, (2019), Data Recording Requirements for Youth Offending Teams in England and Wales April 2019 to March 2020 https://yjresourcehub.uk/yjb-effective-practice/youth-justice-kits/item/download/761_b5e5d4f65e9e6f0c881e1203b18e924c.html
24. See Youth Justice Legal Centre, (2019), Deferred prosecution – Outcome 22 <https://yjlc.uk/deferred-prosecution-outcome-22/> and Home Office (2019), Crime Recording General Rules, Available at https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/845360/count-general-nov-2019.pdf
25. For an insight into current activity see Robin-D’Cruz and Tibbs (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>
26. Her Majesty’s Inspectorate of Probation (2019), Annual report: inspection of youth offending services (2018-2019): <https://www.justiceinspectorates.gov.uk/hmiprobation/wp-content/uploads/sites/5/2019/10/Youth-annual-report-inspection-of-youth-offending-services-2018-2019.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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