

Youth Diversion

A thematic inspection of youth diversion in the
criminal justice system in Northern Ireland

July 2011

Criminal Justice Inspection
Northern Ireland
a better justice system for all





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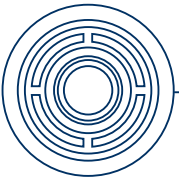
A thematic inspection of youth diversion in the criminal justice system in Northern Ireland

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Laid before the Northern Ireland Assembly under Section 49(2) of the Justice (Northern Ireland) Act 2002, (as amended by paragraph 7(2) of Schedule 13 to the Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2010) by the Department of Justice.

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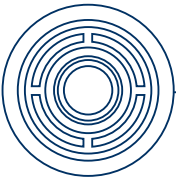
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List of abbreviations

CJI	Criminal Justice Inspection Northern Ireland
EQIA	Equality Impact Assessment
JJC	Juvenile Justice Centre
NI	Northern Ireland
NIAO	Northern Ireland Audit Office
PBNI	Probation Board for Northern Ireland
PPS	Public Prosecution Service
PSNI	Police Service of Northern Ireland
PYOP	Priority Young Offenders Project
UK	United Kingdom
YCS	Youth Conference Service
YDO	Youth Diversion Officer (in police)
YJA	Youth Justice Agency
YOC	Young Offenders Centre



Chief Inspector's Foreword

Youth diversion in Northern Ireland is an important element in the overall approach to youth justice. Preventing young people from becoming involved in offending behaviour, or diverting them away from the formal justice system is not just an issue for the criminal justice system but one for the whole of society. It also involves a wide range of Government departments including Education, Health and Social Services.

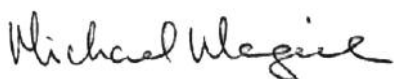
This inspection examined the role of the criminal justice agencies in dealing with young people who have offended and who meet the criteria for diversion as an alternative to prosecution.

In Northern Ireland a lower proportion of young people under 18 convicted of committing crimes receive custodial sentences in comparison with England and Wales.

The inspection found that criminal justice agencies were using restorative practice as the principal means of avoiding criminalising young people early in their lives. Youth diversion based on restorative practices is well embedded in policing principles through the system of informed warnings and restorative cautions. The Youth Justice Agency (YJA) takes the lead in restorative practice and the Youth Conference Service (YCS) is well established and has gained international repute. The appointment of specialist youth prosecutors by the Public Prosecution Service (PPS) should help to ensure that decisions taken about the method of disposal are done so with cognizance to all relevant issues.

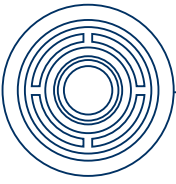
However, to deliver the best outcomes for young people as regards offending behaviour, there needs to be a co-ordination of effort across departments. There should be cross-departmental governance of the justice element of the 10-year Strategy for Children and Young People to achieve better buy-in and co-ordination of effort. The strategy should also be used to routinely draw together the justice agencies and other relevant public sector organisations as part of an overall approach. We will be returning to this theme in our forthcoming inspection of Youth Interventions.

This inspection was led by William Priestley and Rachel Lindsay and I would like to thank all those who contributed to this exercise.



Dr Michael Maguire
Chief Inspector of Criminal Justice
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July 2011

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Executive Summary

Introduction

With around one quarter of the population under the age of 18 and around 200,000 young people between the ages of 10 and 17, the approach to youth diversion in Northern Ireland is an important element of the overall approach to youth justice. Young people who have become involved in crime need to be encouraged to desist from further criminal behaviour and deserve to be supported in striving to reduce the factors that increase the risk of them committing further offences.

Diverting young people away from criminal behaviour requires a joint and co-ordinated effort by all the relevant justice agencies. It also involves those agencies such as Social Services, Health and Education that can make a difference in helping to sustain and support young people in making a positive contribution to society.

In Northern Ireland a lower proportion of young people under 18 convicted of committing crimes receive custodial sentences in comparison with England and Wales, where over the last three years, an average of between 3% to 5% of offences committed by young people brought to justice result in a custodial sentence. In Northern Ireland on average around 1% of crimes committed by young people that are brought to justice result in a sentence of detention.

Overall findings

The approach to youth justice in Northern Ireland is one based largely on restorative practice, avoiding criminalising young people early in their lives and aimed at enabling young people to become effective members of society. Youth diversion based on restorative practices is well embedded in policing principles through the system of informed warnings and restorative cautions. The Youth Justice Agency (YJA) takes the lead in restorative practice and the Youth Conference Service (YCS) is well-established and has gained international repute. The appointment of specialist youth prosecutors by the Public Prosecution Service (PPS) should help to ensure that decisions taken about the method of disposal are done so with cognizance to all relevant issues. The voluntary and community sector are important contributors to youth diversion whether through interaction with statutory agencies or by provision of programmes within the youth community.

There needs to be some fine tuning to ensure that the most appropriate method of diversion is applied in each case to ensure the best outcome for the young person and for society. The goal should be to ensure that each diversionary option receives only those referrals that it is capable of dealing with in the best interests of the young people, with the ultimate aim of enabling and supporting them to desist from future criminal behaviour.

The age of criminal responsibility is a factor in directing very young people into the justice system despite the general diversionary approach of the system in Northern Ireland. Young people come



into the justice system from the age of 10 onwards as opposed to 12 in Scotland and an average of 14 or 15 across other European jurisdictions. In terms of international obligations, this comparatively low age of criminal responsibility has been the subject of negative comment by the European Commissioner for Human Rights. The terms of reference for the review of the Youth Justice System in Northern Ireland announced by the Justice Minister on 1 November 2010 state that *'The review will give particular regard to the statutory aims of the youth justice system, international obligations in this area...'*. Inspectors recommend that inclusion of the age of criminal responsibility as part of this review would be useful and timely.

The 10-year Children and Young Persons Strategy published by the Office of the First Minister and Deputy First Minister (OFMDFM) has the potential to integrate the approaches to youth diversion to address the main contributory factors to youth offending and re-offending. However, to deliver the best outcomes for young people as regards offending behaviour, there needs to be a co-ordination of effort across departments. There should be cross-departmental governance of the justice element of the 10-year Strategy for Children and Young People to achieve better buy-in and co-ordination of effort. The Strategy should also be used to routinely draw together the justice agencies and other relevant public sector organisations as part of an overall approach.

The re-introduction of 'police discretion' whereby low level unsociable behaviour can be addressed at the time by police officers without recourse to the formal justice system is also generally positive. It helps to avoid early criminalisation of young people who may never come to the notice of the justice system again. There are aspects of this approach that need careful monitoring such as the recording and provision of information to specialist police officers so that informed decisions about young persons' subsequent behaviour can be made with the aim of providing them with the best chance of avoiding re-offending.

'Speedy justice' is generally regarded as positive for young people who are developing and changing quickly during adolescence and therefore require timely interventions. However, it is important to retain expertise and knowledge within the system so that informed decisions can be made as to the most appropriate method of disposal and that cautions can continue to be delivered with the necessary restorative element. The delivery of 'speedy justice' needs to be monitored to ensure that decisions and subsequent warnings and cautions are not delivered with undue haste and that they are always delivered by suitably trained staff to maintain their quality and impact.

Young people from a looked-after care background are over-represented in the justice system. Young people in such situations should be accorded the same sort of leeway as they would experience in a family environment where prosecution or reporting is not the first option in response to offending behaviour. Some family support panels had introduced elements of restorative practice as a first instance when dealing with young people in homes rather than calling the police as the first option. The situation of these children needs to be monitored to establish whether they are receiving equitable treatment as regards diversionary options.

Diversionary disposals are not criminal convictions and should not be disclosed as such. There had been instances of disclosure of diversionary disposals to the potential disadvantage of young persons during vetting procedures prior to employment.





Recommendations

Strategic recommendations

- Inspectors recommend that the issue of the age of criminal responsibility should be included in the review of the Youth Justice System which originated as part of the Hillsborough Agreement in February 2010 (*paragraph 2.5*).
- Inspectors recommend that there should be cross-departmental governance of the justice element of the 10-year Strategy for Children and Young People to achieve better buy-in and co-ordination of effort (*paragraph 2.8*).
- Better use of the 10-year Strategy for Children and Young People to routinely draw together the justice agencies and other relevant public sector organisations should be considered as part of the comprehensive review of the Youth Justice System in Northern Ireland (*paragraph 4.11*).

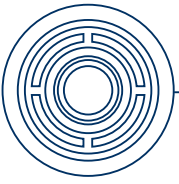
Operational recommendations

- Inspectors recommend that the police discretion initiative is closely monitored with regard to offending behaviour by young people to ensure that information is recorded and made available to Youth Diversion Officers and deciding prosecutors as appropriate in the event of any further misdemeanours (*paragraph 4.13*).
- Inspectors recommend that the PSNI widens the scope of its equality impact assessment of the youth diversion scheme and that any anomalies are closely examined and mitigated to ensure the continued fair application of the scheme across all section 75 categories (*paragraph 4.14*).
- Inspectors recommend that the ‘speedy justice’ initiative is closely monitored by the PSNI and the PPS with regard to offending behaviour by young people to ensure that decisions are not made with undue haste and that the quality and impact of warnings and cautions is maintained (*paragraph 4.19*).
- There should be careful future monitoring of the proportion of ‘looked-after/cared for’ children in the justice system to establish whether they are receiving equitable treatment as regards diversionary options (*paragraph 4.21*).

Section



Inspection Report



CHAPTER 1:

Introduction



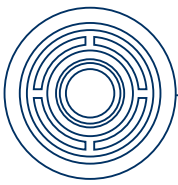
- 1.1 ***When the newspapers have got nothing else to talk about, they cut loose on the young. The young are always news. If they are up to something, that's news. If they aren't, that's news too.*** Kenneth Rexroth.

Around one quarter of the population of Northern Ireland (NI) is made up of people under the age of 18 and there are around 200,000 young people between the ages of 10 and 17. The approach to youth offending differs across the United Kingdom (UK) as does the outcomes for young people progressing through the various youth justice systems. In England and Wales, between 3% and 5% of offences committed by young people brought to justice result in a custodial sentence. In NI on average just below 1% of crimes committed by young people that are brought to justice result in a sentence of detention at the Juvenile Justice Centre (JJC) or Hydebank Wood Young Offenders Centre (YOC), whilst in Scotland, there are no prison custodial places for children up to the age of 16.

- 1.2 Preventing young people from becoming involved in offending behaviour, or diverting them away from the formal justice system is not just an issue for the criminal justice system but one for the

whole of society. It also involves a wide range of Government departments including Education, Health and Social Services. Many research articles point out that offending behaviour by young people is directly linked to many factors, some of which are poverty, socio-economic status and peer behaviour.

- 1.3 Key messages from Criminal Justice Inspection's (CJI's) previous inspections in the youth justice area are that there has been a reduction in the number of young people in custody at any one time from an average of 250 during the 1990s to a current average of under 30 at the JJC, and at the time of report drafting, 17 at the YOC. Coupled with that are high levels of investment in the provision of a JJC which has been designed with the care of young people as the central focus and the diversionary and restorative approaches of the Youth Justice Agency (YJA).
- 1.4 This thematic inspection of youth diversion commenced during May 2010 with preliminary consultation on the terms of reference with the main justice organisations and other relevant community and voluntary organisations. Fieldwork started in August 2010 and continued into September and involved stakeholders from the voluntary and community sector, young people



(accessed through voluntary groups), and representatives of the main justice agencies involved in this area of operation. The inspection focuses on the three main elements of CJI's inspection framework as they apply to youth diversion. The system is assessed as regards Strategy and Governance, Delivery, and Outcomes (or projected outcomes) in terms of youth diversion. How youth diversion arrangements in Northern Ireland align with existing good practice and relevant standards where appropriate is also outlined.


Definition of youth diversion

1.5 CJI will follow up the publication of this report with an inspection into youth interventions which will look in more depth at the range of diversionary activity that would otherwise be regarded as sitting outside of the strict definition of youth diversion. However, for the purposes of this inspection and to properly set the context we encompass as many of the issues as possible in the definition of youth diversion. This means that diversion is taken to include any of the activities of, and options open to justice agencies that, at one end of the spectrum are designed to divert young people from behaviour likely to lead to offending. At the other end of the spectrum, it includes activities and options designed to divert young people from being the subject of custodial orders. The full range of diversionary activity in between is also included. Diversionary activity can therefore range from early intervention with young people below the age of criminal responsibility identified as being at risk of becoming involved in offending behaviour, to options applied to young people who

have offended and re-offended many times. This includes those young people involved in the Priority Youth Offender Project (PYOP) jointly run by the Probation Board for Northern Ireland (PBNI) and the Youth Justice Agency (YJA). To properly set the context for the report, we also spoke with a range of people from the voluntary and community sector who are involved in diversionary activity. This report does not present in-depth all the information gathered during fieldwork but uses that information to set the overall context for mainstream youth diversion in the criminal justice system. In-depth examination of that information will inform our report into youth interventions.

1.6 The United Nations and the World Health Organisation define 'youth' as being persons between the ages of 15 and 24 and most figures for youth offending produced by the United Nations reflect that. The later starting age of the United Nations figures reflect the generally later commencement of the age of criminal responsibility in other countries. However, in Northern Ireland, youth diversion arrangements since August 2005 have been generally applicable to persons between the age of criminal responsibility (10) and the age someone attains adult status (18). It is how youth diversion is applied to people in this age group that is the subject of this inspection topic.

1.7 The three main justice agencies involved in the inspection are the Police Service of Northern Ireland (PSNI); the Public Prosecution Service (PPS); and the YJA. The PBNI also plays a role in youth diversion, for example it is involved in a partnership with the YJA in delivering a pilot project (PYOP) to deal with



persistent young offenders. This project is currently being evaluated and was referred to in CJI's review of the *Youth Conference Service*¹ published in April 2010. Interventions made by the Probation Board with young people will be included in a later CJI inspection on youth interventions.

The three main agencies

1.8 As the gateway into the justice system for many young people, formal statutory youth diversion arrangements in NI are administered by the PSNI either acting alone or in partnership with the YJA and, where there has been an offence reported, as directed by the PPS. The stated aims of the PSNI youth diversion scheme are:

- to provide an effective, fair, proportionate and restorative response to those offending, at risk of offending or involved in anti-social behaviour and provide satisfactory outcomes for victims;
- to identify those at risk of offending or coming to harm;
- to work with partner agencies to prevent children and young persons from offending/committing anti-social behaviour, using a range of initiatives; and
- to promote the needs of victims and community and where possible, providing an opportunity for them to have their views heard, by engaging in the restorative process.

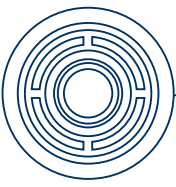
1.9 The PSNI has specialist Youth Diversion Officers (YDOs) in place across all policing districts to achieve the aims of the scheme and to improve partnership

work between the PSNI and other agencies and, to help achieve better outcomes for young people who become involved in offending behaviour. YDOs are a critical link within the entire justice system and across other departments such as Education and Social Services in the drive to divert young people from offending behaviour. That they are specialist officers having the skills and time to devote to this area has meant that many young people on the threshold of committing criminal offences have been steered away from such behaviour by the intervention of YDOs. Interventions with parents and other agencies have helped ensure that appropriate support is given to enhance the chances of a young person avoiding being criminalised early in their lives.

1.10 The PPS has appointed specialist regional youth prosecutors to tailor the system for young offenders and to help achieve more speedy outcomes. Prosecutors are guided by the 'PPS Code for Prosecutors' and by a manual specifically referring to diversion through the Youth Conference Service. The Prosecutor's Code states '*... there are circumstances in which, although the evidence is sufficient to provide a reasonable prospect of conviction, prosecution is not required in the public interest. For example, Public Prosecutors should positively consider the appropriateness of a diversionary option (particularly if the defendant is a youth).*'

1.11 Prosecutors are also a critical link in the process of diverting young people away from the formal criminal justice system thereby avoiding early criminalisation. The provision of specialist youth

¹ Youth Conference Service: Report on the Inspection of the Youth Conference Service in Northern Ireland; February 2008; and Youth Conference Service: A follow-up review of inspection recommendations April 2010 - www.cjini.org.



prosecutors has greatly improved the service for young people. Non-specialist prosecutors still make decisions relating to young people, for example in 'speedy justice' schemes designed to speed up the justice process for young people. Swift justice is important, especially for young people whose circumstances may change greatly in their adolescent years. However, decisions about how young people are to be dealt with need to be fully informed and in the 'speedy justice' systems prosecutors are heavily reliant on the immediate information given to them by investigating, non-specialist officers.

1.12 The Youth Justice Agency Mission Statement is: *'Our aim is to reduce youth crime and to build confidence in the youth justice system'*. The strategic aims of the YJA include:

- reducing offending;
- developing restorative justice; and
- delivering positive outcomes for young people.

The aims are delivered through all the directorates with each having an element of youth diversion built in, whether it is to divert young people from offending or re-offending. The agency is central to the approach to youth diversion in Northern Ireland.

Aims and objectives of the inspection

1.13 The aim of the inspection is to examine and assess youth diversion arrangements across the criminal justice system in NI. The objectives of the inspection are to:

- assess the effectiveness of youth diversion arrangements in the NI system by collecting and analysing

quantitative and qualitative information from organisations and stakeholders;

- examine the effectiveness of organisational strategies with regard to youth diversion and how they support and link with overarching youth strategies such as the 10-year Strategy for Children and Young People in Northern Ireland 2006-16;
- examine how youth diversion is delivered collectively by the criminal justice system and individually by organisations to meet needs and expectations of stakeholders and customers;
- examine and assess the outcomes of strategies and delivery mechanisms for youth diversion against targets and expectations; and
- examine how outcomes of youth diversion arrangements are benchmarked against other jurisdictions and alternative approaches to youth justice.

Methodology

1.14 The full inspection methodology is set out in Appendix 1 and in the terms of reference (Appendix 2) but briefly it included the following steps:

- research and review of documentation;
- design and planning;
- fieldwork and consultation;
- delivery;
- reporting and action plan; and
- publication and closure.

CHAPTER 2:

A holistic approach?



2.1 Diverting young people away from offending behaviour is not solely the preserve of justice organisations. There has been much research, locally and internationally, that clearly demonstrates the link between young people's offending behaviour and social, economic, health and education factors. Many governments acknowledged that tackling and preventing youth crime necessitate approaches that address these and other factors, by introducing legislation that requires agencies to approach youth crime in more holistic and partnership based ways. For example, The Children's Hearing System in Scotland is applied to young people under 16 who have committed an offence (except serious offences) or are in need of care and protection. The system is based on the recommendations of the Kilbrandon Report², which found that children involved in the criminal justice system, either as offenders or in need of care, had common needs for both social and personal care. However, the Kilbrandon-based system has been subject to pressures over the years, especially since devolution and the basic principle of early and minimal non-justice based intervention has been

eroded. Recent research conducted over a long period of time and involving a large number of young people in Scotland suggest that the basic Kilbrandon principle is one that delivers better outcomes for young people and for society³.

2.2 In Scotland the age of criminal responsibility has been raised from eight to 12 years. In the rest of the United Kingdom (UK) it is 10, whilst in many other European jurisdictions it is higher. In Scandinavian countries it is generally 15 and in some countries such as Belgium and Luxembourg, it is as high as 18. The comparatively low age of criminal responsibility has been the subject of comment by the European Commissioner for Human Rights. In 2008 following a visit to the UK the commissioner commented that '*Noting the very low age of criminal responsibility in the UK, the Commissioner recommends that the Government considerably increase the age of criminal responsibility to bring it in line with the rest of Europe where the average age of criminal responsibility is 14 or 15.*' In England and Wales this situation is unlikely to change at least in the short to medium term.

² The Kilbrandon Report – Children and Young Persons Scotland, reprinted 2003, HMSO Edinburgh.

³ Youth crime and justice: Key messages from the Edinburgh Study of Youth Transitions and Crime; Lesley McAra and Susan McVie; Criminology & Criminal Justice 10(2) 179-209; 2010.



2.3 The low age of criminal responsibility has a dual effect on the entry of young people into the criminal justice system. By setting at 10 years the age at which a young person may be deemed to be capable of committing a criminal offence, it brings young people into the system earlier than would be the case in many other jurisdictions. The counter argument is that doing so brings to the attention of the justice system offending behaviour at an early age and enables early intervention by justice agencies. However, research has indicated that if early intervention is attempted in an effort to divert young people away from the formal justice system, then this is best done by non-justice agencies and as part of an overall strategy to tackle youth poverty and other factors such as poor education that are associated with increasing the risk of offending behaviour.

2.4 Raising the age of criminal responsibility would ensure that young people do not enter the justice system early in their lives thereby avoiding the stigmatising effect this may have. This would need to be done in conjunction with approaches that tackle the risk factors associated with offending behaviour by young people and deal with the few serious offences committed by very young children. In Scotland the debate which resulted in raising the age from eight to 12 featured reassurances that a system was in place to deal with those few very young children who commit serious crimes. The fact that Scotland has a welfare-based Children's Hearing System with appropriate disposals available for such serious cases provided such reassurance. The debate illustrated the complex nature of youth offending and

the need for a holistic approach to address the social, economic, health and education factors associated with youth crime.

2.5 The United Nations standard minimum rules for the administration of juvenile justice (The Beijing Rules) proposes that the age of criminal responsibility should be set according to: '*whether a child can live up to the moral and psychological components of criminal responsibility; that is, whether a child, by virtue of her or his individual discernment and understanding, can be held responsible for essentially anti-social behaviour*'. The Rules go on to state that: '*efforts should therefore be made to agree on a reasonable lowest age limit that is applicable internationally*'. An internationally agreed reasonable lowest age limit based on the Beijing Rules has not yet been reached but in the context of youth diversion in Northern Ireland, **Inspectors recommend that the issue of the age of criminal responsibility should be included in the review of the Youth Justice System which originated as part of the Hillsborough Agreement in February 2010.**

2.6 There is no overall strategy for youth diversion in Northern Ireland. The approach to youth diversion is made up of a number of organisational strategies and approaches which underpin the youth diversion scheme such as the PSNI Youth Strategy, the YJA Diversionary approach, and the PPS Code for Prosecutors and other guidance on youth diversion. Additionally, agencies outside the justice system also have strategies that indirectly impact on youth diversion such as the Southern Area Family



Support Strategy. However, there is no one strategy for youth diversion that effectively co-ordinates the approach of all the agencies involved whether they are justice agencies or other relevant public bodies.

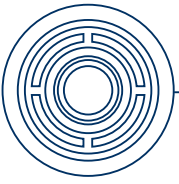
2.7 The 10-year Strategy for Children and Young People in Northern Ireland sets out a series of pledges that recognise the need for a holistic approach to ensuring young people fulfil their potential and contribute positively to society. One of the pledges it makes is to be guided by the United Nations Convention on the Rights of the Child. Diversionary options such as the Youth Conference Service (YCS) and the PSNI Youth Diversion Scheme are identified as being drivers for positive change. However, Inspectors found that the 10-year Strategy was not driving the work done by criminal justice operatives, education and social welfare, or members of the voluntary and community sector as the overarching mechanism by which approaches in the justice sector could be drawn together. Officials and youth justice professionals told Inspectors that whilst the Criminal Justice Board had adopted governance of this area with regard to justice issues, key departments which have an impact on outcomes such as education, employment and learning and social services were not represented.

2.8 Inspectors believe that the 10-year Strategy has the potential to be used to integrate the approach to youth diversion in Northern Ireland to address the main contributory factors to youth offending and re-offending which have been identified as:

- poverty;
- social exclusion;
- health;
- education; and
- employment and employability.

Through various action plans, for example, relating to health, education and economic well-being, there are delivery mechanisms within the 10-year plan to achieve real outcomes for young people. With specific regard to justice issues, the action plans engage many partners from within the system supported by voluntary and community sector organisations. A ministerial sub-committee of the Office of the First Minister and Deputy First Minister oversees delivery of the Strategy but better cross-departmental governance would provide the overall sense of direction required to deliver better outcomes through the justice system for young offenders. Within the justice system, the Criminal Justice Board governs the area of the Strategy relating to youth justice through a sub-group but there is no inclusion of the departments such as health and education delivering against action plan objectives that impact on offending behaviour. To deliver the best outcomes for young people as regards offending behaviour requires co-ordination of effort across departments. **Inspectors recommend that there should be cross-departmental governance of the justice element of the 10-year Strategy for Children and Young People to achieve better buy-in and co-ordination of effort.**





CHAPTER 3:

Diversiónary options



3.1 Youth crime dominates media coverage of youth culture in Northern Ireland (NI) and across the United Kingdom (UK). However, research suggests that young people are more likely to be victims of crime than they are perpetrators and, that most young people who do come into contact with the formal criminal justice system usually only appear before it once. Despite these findings, there has been an increasing concern among the general public over the perceived rise in persistent young offenders.

3.2 In NI the four main elements of the formal approach to youth diversion is set out in existing legislation. The Public Prosecution Service (PPS) has a central role to play in all of these options as it is prosecutors who decide, in all cases, upon receipt of a report from the police as to the course of action to be followed. Once a prosecutor has decided that there will be no prosecution, in the case of young persons the three main diversionary options are:

- informed warning;
- restorative caution; or
- diversionary youth conference.

A further option of placement on the young driver scheme exists for those young people over the age of 17 who commit a lower end speeding offence.

If a prosecutor decides that a prosecution is warranted and the case is taken to a court of law, further diversionary options open to the judiciary are:

- court ordered youth conference; or
- other order upon conviction.

Whilst it could be argued that these are options that sit outside the definition of 'diversion' the fact is that the process is designed to divert young offenders away from what otherwise may be a period in custody. However, in the context of this report the focus will be on the pre-conviction diversionary options. In our report on youth interventions which will follow on from this inspection, we will look more closely at post-conviction interventions. The relationship between the pre-conviction diversionary options are set out in Figure 1. The diagram clearly shows that diversionary options are entirely dependent on the young person admitting to his or her part in the alleged offence.

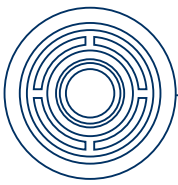
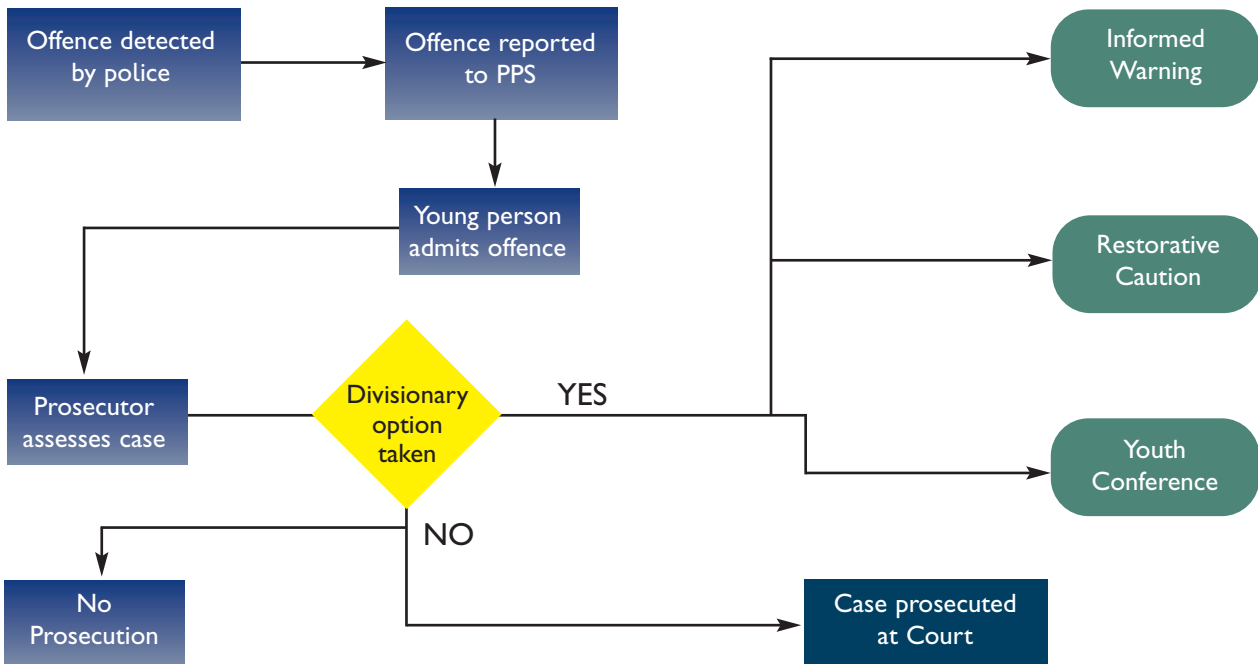


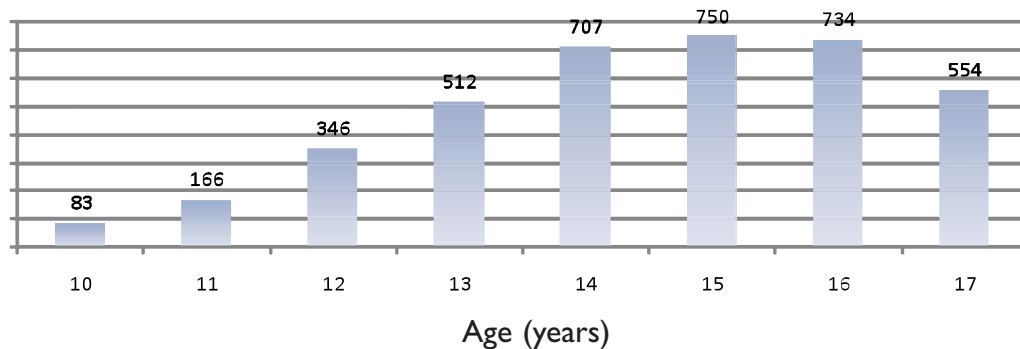
Figure 1: Flowchart of diversionary options



Informed Warning

3.3 An informed warning may be directed by the prosecutor and this is for the police to administer. Informed warnings are usually delivered by Youth Diversion Officers (YDOs) in the presence of parent(s) or guardian(s). The warning is formal and is recorded on the young person’s criminal record but is removed after a period of 12 months free from further offending behaviour. An informed warning is not a conviction. Since January 2008 the Police Service of Northern Ireland (PSNI) have administered 3,852 informed warnings across the age range illustrated in Figure 2.

Figure 2: Informed warnings by age group (1 January 2008 - 31 August 2010)

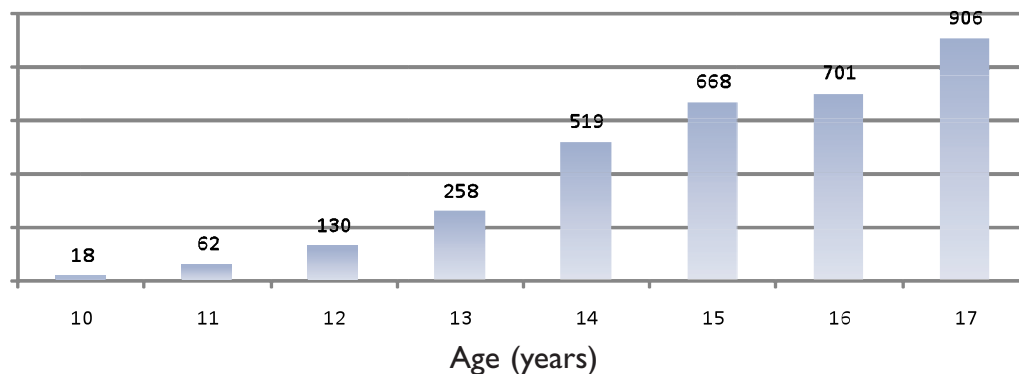


Restorative Caution

3.4 If the prosecutor directs a restorative caution, it may be administered by a police officer, someone from another agency such as the Youth Justice Agency (YJA), or a community

representative. Victims of the offending behaviour may take part in the process and it is designed to enable the young person to develop a greater understanding of the impact of their behaviour. A restorative caution is not a conviction but it does appear on a young person's record for two years and six months. Since January 2008, the police have administered 3,262 restorative cautions as illustrated in Figure 3.

Figure 3: Restorative cautions by age group (1 January 2008 - 31 August 2010)



3.5 In comparison to the distribution of informed warnings across the age groups, many less cautions are administered to people at the younger end of the scale reflecting the graduated nature of the diversionary options.

Diversionsary youth conference

3.6 The decision whether or not to refer a young person to a diversionary youth conference is for the PPS to make, but these conferences can only take place where the young person has admitted the offence and agrees to participate in a conference. A diversionary conference is a meeting or a series of meetings held to consider how a young person should be dealt with for an offence. A conference plan is agreed which is presented to the prosecutor for their approval. If the prosecutor accepts the plan, it must then be complied with by the young person. However, if the young person fails to comply or the

prosecutor does not accept the plan, then the prosecutor may refer the case to court. The Youth Conference Service (YCS) was the subject of inspection reports by CJI published in February 2008 and April 2010.⁴ Diversionary youth conferences are organised by the Youth Conference Service directorate of the YJA. The aim is to provide a forum of discussion involving offender, victim, and others affected by the crime. The outcome is a conference plan which may include any or all of the following:

- an apology to the victim;
- reparation to the victim or to the community;
- payment to the victim in compensation;
- supervision by an adult;
- work or service for the community;
- participation in activities designed to deal with offending behaviour;
- training or education to deal with problems such as drugs or alcohol;

⁴ Youth Conference Service: Report on the Inspection of the Youth Conference Service in Northern Ireland; February 2008; and Youth Conference Service: A follow-up review of inspection recommendations April 2010 - www.cjini.org.

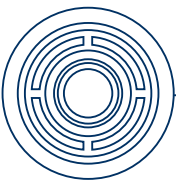


Figure 4: Diversionary Youth Conferences 2008 and 2009

Year	Diversionary Conferences	Diverted at court
2008	884	206
2009	978	225

- restrictions on conduct or whereabouts, for example curfews; and
- treatment for mental problems or for alcohol or drug dependency.

Of a total of 884 conferences in 2008, 206 were diverted at court prior to conviction due, (see Figure 4) for example, to an indication of admission of guilt before the hearing. These referrals are not ‘court ordered’ conferences but are categorised as diversionary.


Court ordered youth conference upon conviction

3.7 This category applies when a young person has been referred to a court to answer a criminal charge. On conviction the law dictates that a court must (with some exceptions) consider referring the matter to a youth conference. In such cases conference plans are forwarded to the deciding judge for approval. A judge may require the plan to be amended before approving it. There are other sentencing options available at this stage of the process, for example, community service orders. However, these will be looked at more closely in our forthcoming inspection into youth interventions as they are not strictly diversionary options. During the years 2008 and 2009 the number of court ordered conferences was 807 and 889 respectively. This represents 48% of all conferences ordered in both years.

Other diversionary activity

3.8 Categories of diversions which could be added but which are not universally recognised are ‘take no further action’ or ‘advice and warning.’ These options are not formally recognised by the criminal justice system with regard to recorded offending behaviour by young people. However, at the lower end of the spectrum of offending behaviour, police officers have told Inspectors that they still exercise their discretion informally and with pragmatism and, for example, choose to move young people on from minor offending behaviour without recourse to the formal justice system. In many of these cases police officers dispense informal, verbal advice to the young person(s) involved. On occasion this type of diversion involves specialist police Youth Diversion Officers (YDOs) who receive information on the behaviour of young people from patrol officers.

3.9 Prosecutors do not have the option of directing ‘advice and warning’ but in some minor cases this approach may be the best option for the young person and society in general. The option of ‘doing nothing’ is explored further in Chapter 4. However, a recent police initiative in restoring and encouraging officers’ use of discretion is now well underway. This requires officers to use their own judgement in dealing with low-level offending behaviour such as is



common during instances of anti-social behaviour but interventions are recorded by officers to track repeat occurrences. Although accurate costs of informed warnings and restorative cautions are not known, the option of an officer being able to use discretion to deal with minor offending behaviour is likely to cost much less than going through a formal process.

3.10 Outside the formal justice system there is a myriad of activity that takes place with young people which is rightly regarded as diversionary activity. These activities are explored further in Chapter 4. However, in general the outcomes of such activity are difficult to quantify whilst being recognised by senior criminal justice figures and academics as being invaluable in preventing and diverting offending behaviour. Some of these activities are included in the action plan of the Office of the First Minister and Deputy First Minister 10-year Strategy but there are many more activities organised by voluntary and community sector organisations that divert young people away from offending behaviour.

Youth diversion in other jurisdictions

3.11 Across jurisdictions in various democracies, there is almost universal recognition of the effectiveness of early intervention and restorative approaches as the most effective way of reducing youth crime. At present in England and Wales, the Youth Justice Board oversees the Youth Justice System working to prevent offending and re-offending by children and young people under the age of 18, and to ensure custody addresses the causes of their offending behaviour.

The Board is focused on early intervention as an effective means to reduce youth crime. A report⁵ by the Audit Commission indicated that early intervention to prevent young people offending would potentially save public services in England and Wales more than £80 million a year. In 2008-09 the cost to criminal justice services of dealing with youth offending in England and Wales was calculated to be £4 billion a year.

3.12 In Scotland where there has been a lot of public interest and debate about youth justice issues, the core approach to youth offending is the Children's Hearing System. Here again, there has been recognition that early preventative work plus appropriate support in the adolescent years is required to tackle offending behaviour amongst young people. Young people under the age of 16, who offend will normally be dealt with through the Children's Hearing System. Persons aged 16 and over will normally be subject to the adult criminal justice procedures. In Scotland it is the Procurators Fiscal who have responsibility for identifying suitable persons for diversion into other interventions in anticipation that this will have more beneficial impact on future offending behaviour than a court referral. The Youth Justice Framework for Scotland aimed at preventing offending by young people has five main themes, which are:

- prevention;
- early and effective intervention;
- managing high risk;
- victims and community confidence; and
- planning and performance improvement.

⁵ Audit Commission: Youth Justice 2004: A Review of the Reformed Youth Justice System.



3.13 The Framework has wide buy-in across those areas that most impact on the prevention of offending behaviour by young people. It is formally owned by the Scottish Government, the Convention of Scottish Local Authorities, the Association of Chief Police Officers Scotland, Scottish Children's Reporter Administration, and the Crown Office and Procurator Fiscal Service. However, importantly it is endorsed by Inspectorates and professional organisations outside the justice sector including education, care, and social work. This promotes a more holistic approach to youth offending building in support structures to help tackle the causes of re-offending. Governance of the Framework is through a group that represents all of the various stakeholders in recognition of the need for a co-ordinated, cross-departmental approach.

3.14 Elsewhere there has also been recognition of the fact that youth offending needs a holistic approach. For example, in Canada the Youth Justice Renewal Initiative looks beyond legislation and the youth justice system to explore how society as a whole can address youth crime and its associated factors. The approach is based on prevention, meaningful consequences for youth crime, and intensified rehabilitation and reintegration to help young people safely return to their communities. The Canadian system recognises that youth justice renewal requires an integrated and balanced approach involving co-operation and functional integration of child welfare, mental health and court systems. In CJI's previous inspections of the Youth Conference Service we also referred to

the holistic and restorative approach to youth offending in New Zealand.

3.15 Northern Ireland's approach to youth diversion, in particular the Youth Conference Service, has attracted a lot of interest from other jurisdictions. This level of interest, the relatively low rate of youth crime in Northern Ireland and low rates of re-offending in comparison to other non-diversionary disposals such as custodial sentences, suggest that the basic approach is sound. However, improvements to the system and its operational delivery can still be made within the overall aim of ensuring that young people who offend are dealt with in the most appropriate and effective manner to prevent re-offending. Chapter 4 deals with the operational delivery of youth diversion in Northern Ireland.

Operational practice



4.1 Outside of the criminal justice system there are many interventions made with very young people through social services, education, health and community and voluntary organisations. Measuring the impact of these interventions is extremely difficult; nevertheless organisations involved in such activities see them as being crucial in helping to divert young people away from potentially criminal behaviour later in life. In support of this many in the criminal justice sector also see these sorts of interventions as vital in helping divert young people away from offending.

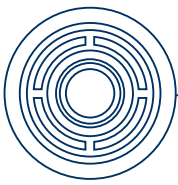
The third sector

4.2 Many diversionary interventions are specifically targeted at young people who are at higher risk of later offending behaviour, such as those young people in the care system, at risk, socially disadvantaged or living in poverty. However, these interventions are not always carried out by justice organisations or for the specific purpose of reducing the risk of offending. The fact that justice organisations are not involved in early intervention of this kind means that early labelling or perceived stigmatisation can more easily be avoided.

4.3 All of the young people consulted during this inspection said that they found interacting with non-statutory

organisations more useful than with justice organisations and that it avoided their own communities labelling them as criminals from an early age. In the context of youth offending in Northern Ireland (NI) this is an important consideration which may impact on the safety of young people committing offences in areas where there is still paramilitary activity. Co-ordinators from the voluntary and community, or 'third' sector engaged in early intervention with young people, emphasised the importance of reinforcement of positive behaviours rather than a fixation on the negative if young people were to be diverted from committing crime.

4.4 There is a wide range of organisations working with young people using various means, often activity based, to divert them away from committing crime. Practitioners in the justice system recognised the importance of these activities, but neither sector could provide empirical evidence that their activities were having a direct effect in reducing the level of offending. This is not surprising and should not be seen negatively. Outcomes of diversionary measures for young people is the focus of Chapter 5 of this report but presenting measureable outcomes in this instance cannot be seen as a simple presentation of cause and effect statistics. Rather it is the qualitative



evidence gathered from young people that should be examined along with such statistics that are available.

4.5 Some third sector organisations provide programmes for young people totally independent of the justice sector. For example, Inspectors spoke to participants in programmes running in various areas of Belfast that had undoubtedly prevented young people from becoming involved in trouble over the summer marching season. Several young people asserted that had they not been engaged in the programmes run by these organisations they would definitely have been involved in public order disturbances. This is obviously valuable diversionary work by any measure. Other schemes delivered by the third sector involved young people taking positive steps towards their education and employability, engaging young people at interface trouble spots, and inputs on influencing their peers' behaviour. *Include Youth* provide programmes for young people that they describe as preventative and do not offer them as elements of a criminal justice led scheme such as a youth conference plan.

4.6 However, some of the activity of the third sector organisations is directly linked to the formal justice system. For example, Belfast RESPECT⁶ developed a new programme having consulted with the Youth Justice Agency (YJA), Probation Board for Northern Ireland (PBNI), and the Police Service of Northern Ireland (PSNI). Funding for the programme comes from the National Lottery and the work is seen as very valuable by the

justice agencies. Referrals to such schemes come not only from the mainstream justice agencies but also on occasion from the various community restorative justice schemes. Other schemes are more closely tied to the justice sector in providing elements procured for the delivery of youth conference plans, for example, the work undertaken in Belfast by 'Training for Life'.⁷

4.7 Funding for the many third sector schemes comes from a myriad of sources but in many cases not from the justice sector. Expenditure by the justice sector as a whole is concentrated on the reactive rather than on the preventative. However, it is much less expensive to divert a young person from criminal acts than to deal with them after they have committed a crime. Costs per head of the various diversionary and preventative schemes run by the third sector vary hugely but on average, are in the region of a few hundred pounds per scheme. The cost of administering a restorative caution has been roughly estimated at just under £1,000. Comparisons with England and Wales are not possible because of the different approach to youth justice, different legislation and different methods of disposals. However, the Ministry of Justice in England and Wales and the National Commission on Restorative Justice in the Republic of Ireland have estimated that, for every £1 spent on restorative justice methods, £8 is saved from the criminal justice budget.⁸

6 Re-Engaging and Supporting People to Enable Community Transformation.

7 A youth project based in Upper Springfield, Belfast.

8 As reported in The Committee for Health, Social Services and Public Official Report: Youth Justice Agency of Northern Ireland 18 February 2010 (Hansard).



4.8 With regard to the funding of the third sector, the Northern Ireland Audit Office (NIAO) report of 2010; *‘Creating Effective Partnerships between Government and the Voluntary and Community Sector’*, cautioned against the potential effect of public bodies’ procurement arrangements in altering voluntary and community sector organisations’ roles. The NIAO recommended that there needed to be a greater focus on decreasing unnecessary bureaucracy; better communication between public sector funders of the third sector; and, more focus on outcomes. This applies as much to justice sector organisations as funders of the third sector as it does to agencies outside the justice system whether they are procuring services in support of youth diversion approaches or supporting third sector organisations’ youth programmes.

Pre-offending statutory sector

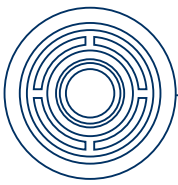
4.9 There is a level of co-ordination of work across the statutory sector, including the justice agencies, especially at operational level, as regards the delivery of holistic diversionary practices. Examples were given to Inspectors of work ongoing in the South East Trust area where family support panels have been established in consultation with communities, third sector and statutory agencies to deliver a ‘whole child’ model, or holistic approach. Referrals may be made by any organisation or community. An example was given of a parent needing support due to the behaviour of an eight-year-old child. A tailored service was developed, funded by Social Services which provided necessary support and early intervention. The case illustrates the difficulty in measuring outcomes. It cannot be said for certain whether

this type of intervention helps keep young people out of the justice system, nevertheless the work does appear worthwhile and has had positive outcomes for parents and the young people involved.

4.10 There has also been the development of child intervention panels which bring together representatives from the PSNI, YJA, Social Services and Education Welfare. Each agency has clearly defined roles and the role of wider partners including families and third sector organisations are integrated into the approach. The panels also recognise the links to existing initiatives such as family support panels. The panels have only just been introduced and it is much too early to assess their impact. However, the holistic approach to dealing with youth diversion and intervention is one that is well supported by research across many jurisdictions. These panels will be further assessed in our inspection of youth interventions.

4.11 The introduction and development of initiatives such as family support and child intervention panels is a positive step. Although such initiatives are more pro-active than waiting for fully fledged offending behaviour to become apparent before intervening, there is still room for better co-ordination between public bodies prior to a moment of crisis in a young person’s life. **Better use of the 10-year Strategy for Children and Young People to routinely draw together the justice agencies and other relevant public sector organisations should be considered as part of the comprehensive review of the Youth Justice System in Northern Ireland.**






4.12 The PSNI have re-introduced the concept of police discretion in dealing with low-level offending behaviour. Again, this has been a recent step and the outcomes are yet to be seen. This approach roughly falls into the 'do nothing' category, although in reality this means 'do nothing formally' that would lead to early criminalisation of young people. Doing nothing in terms of dealing with low-level offending is an option that has been argued works very well with the majority of young people who after all, do not go on to commit any further misdemeanours having achieved maturation; through, for example, better relationships, stability, opportunities and improved understanding. Inspectors understand that the police discretion system requires officers to record incidents and any interventions made and this is an important element that should not be overlooked. In terms of assessing any later offending behaviour, it is vital that police Youth Diversion Officers (YDOs) and prosecutors have access to all relevant information. Therefore it is important for all officers to record these informal interventions fully. The scale of low-level offending is illustrated by the number of non-offences recorded by the PSNI. These are incidents involving young people that do not amount to an offence and therefore are not reported to the PPS for a decision such as illustrated in Figure 1. Between 1 January 2008 and 31 August 2010 the PSNI recorded 52,248 such incidents. In comparison, during the same period there were 26,494 offences committed by young persons.

4.13 The discretion initiative follows on from a previous approach to non-offence behaviour which required police officers

dealing with such incidents to note the behaviour and pass relevant information to YDOs. This earlier approach did not succeed service-wide and close supervision of the discretion initiative will be required to ensure that it becomes fully effective. If implemented across every facet of the PSNI from patrol officers to neighbourhood and support group officers, it could be a valuable way of dealing with low-level offending without prematurely criminalising young people. Missing critical opportunities for diverting young people away from criminal behaviour can have drastic consequences, therefore, ensuring every intervention however informal is recorded and made available to YDOs and deciding prosecutors is essential. At the time of inspection fieldwork, the PSNI and the PPS were jointly working on a protocol specifically with regard to dealing with young people. **Inspectors recommend that the police discretion initiative is closely monitored with regard to offending behaviour by young people to ensure that information is recorded and made available to Youth Diversion Officers and deciding prosecutors as appropriate in the event of any further misdemeanours.**

Police youth diversion scheme

4.14 This scheme applies to informed warnings and restorative cautions as set out in Chapter 3 and has been in operation since 2003. In general the scheme is administered by police YDOs following decisions made by the PPS as to what disposal is appropriate. The most recent equality impact assessment (EQIA) of the scheme took place in



2007 and indicated there had been no bias during the decision-making processes. However, some anomalies were identified. For example, more Protestants were referred but there were more Roman Catholics prosecuted; and more likelihood that 15- to 16-year olds will be prosecuted than will receive a diversionary disposal.

The EQIA indicated that the PSNI would monitor these anomalies. However, it would be useful to widen the scope of the impact assessment to take account of the other section 75 categories.

Inspectors recommend that the PSNI widens the scope of its equality impact assessment of the youth diversion scheme and that any anomalies are closely examined and mitigated to ensure the continued fair application of the scheme across all section 75 categories.

4.15 The entry level of the police diversion scheme is the informed warning; the next level up in terms of seriousness is the restorative caution. As illustrated in Figure 1 the uptake of these diversionary options is dependent on the admission and co-operation of the young person. One incentive to pursuing a diversionary route is that the diversions are not recorded as criminal convictions. However, recently the incentive of avoiding a criminal record by following the diversionary route has been jeopardised as disclosure of informed warnings and cautions had become an issue. This is further examined in Chapter 5.

4.16 In Chapter 3, Figures 2 and 3 illustrated the numbers of informed warnings and restorative cautions issued between 1

January 2008 and 31 August 2010.

For the same period the PSNI had recommended informed warnings or restorative cautions in 35.2% of cases forwarded to the PPS for decision.

As a percentage of the number of cases directed on by the PPS, the two PSNI diversion scheme disposals accounted for 32.9%. Figure 5 illustrates a summary of the level of agreement between the PSNI recommendations and the PPS decisions with regard to diversionary options over the most recent period for which figures are available for non-charge cases only. These figures provided by the PPS are based on the first recommendation made by the police investigating officer against the first prosecutorial decision for the calendar years 2007 to 2009. The level of agreement is low except for the informed warning category. Similar figures produced by the PSNI showed a slightly higher level of agreement in each category (red text in brackets) reflecting some variance in how data is produced by each organisation. The Causeway programme has the potential to produce management information across the system that would be directly comparable. However, that is not a current function of the Causeway system as it presently operates.

Inspectors found that the relationship between the PSNI and the PPS with regard to youth diversion was good. Officers commented that they had easy access to specialist advice from prosecutors even though they may not always agree with decisions made. Figure 6 in Chapter 5 illustrates the re-offending rates recorded by the police in respect of each of these diversions.

4.17 YDOs are trained in restorative

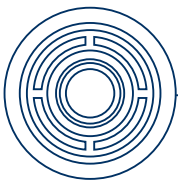


Figure 5: PSNI recommendations/PPS decisions

	PSNI recommendations	PPS decisions	% Agreement
Caution	5,083	2,028	39.9(54)
Informed warning	4,065	2,725	67(70.6)
Youth Conference	1,303	411	31.5(40)

practices and deliver informed warnings and restorative cautions. Some police districts have also trained some other officers in restorative practices but they rarely delivered cautions or warnings. Young people who had received informed warnings and/or restorative cautions from police YDOs were very positive about their experiences. Many said that they had been able to build a relationship with the officer which had affected their future behaviour positively. Relationship building is recognised as something very positive when attempting to divert young people away from crime and police officers told Inspectors that this was vital work though often misunderstood by their colleagues. YDOs were well versed in the rights-based approach to dealing with young people, but raised concerns that many of their colleagues did not share the same values. *‘It’s hard to get a beat officer to accept that a 15 or 16-year-old is behaving the way they are because of other factors in their lives and that they are in fact vulnerable. It all gets lost in dealing with what is seen as just youths causing annoyance.’*

4.18 Recent initiatives such as discretion and ‘speedy justice’ are generally positive developments for young people. It is recognised that by the time an appropriate disposal for a young person has been decided on, in many cases, the young person has moved on with their

lives making subsequent actions taken by the agencies largely irrelevant. However, in ensuring ‘speedy justice’ it is also important to retain the appropriate level of expertise and knowledge within the system. An officer initially dealing with a young person may not have immediate access to all the relevant details required to pass on to a prosecutor so that informed decisions can be made as to the appropriate method of disposal. For example, information about prospective employment that may be jeopardised by a less than fully informed decision may not be available to an officer initially dealing with a young person. YDOs gather such information without unnecessarily delaying the justice process. Similarly, deciding prosecutors in such cases are not always those specialist youth prosecutors nominated by the PPS.

4.19 In addition YDOs also raised concerns that cautions were being delivered without the necessary restorative element in the name of speedy justice. The absence of involvement from YJA staff in these types of disposals as they focus on diversionary youth conferences and adjudicated offenders, places more emphasis on the integrity of the police process. If police officers are to lead this process without inputs from YJA staff the process should remain in the hands of officers with the necessary level of skills. As with the discretion

initiative, the delivery of 'speedy justice' should be monitored to ensure that decisions and subsequent warnings and cautions are not delivered with undue haste and that they are always delivered by suitably trained staff. **Inspectors recommend that the 'speedy justice' initiative is closely monitored by the PSNI and the PPS with regard to offending behaviour by young people to ensure that decisions are not made with undue haste and that the quality and impact of warnings and cautions is maintained.**

4.20 In support of their approach to youth diversion the PSNI have introduced a youth steering group with a rotating chairperson from the third sector. The steering group comprises trainers from the Police College and police district representatives along with young people from the same police districts. The group addresses issues such as complaints and has met with representatives from the Office of the Police Ombudsman for Northern Ireland (OPONI). The group has influenced the diversionary approach taken by the police and this has included changes being made to policy and procedures. For example, the removal of the closure type 'Youths Causing Annoyance' which had the effect of stereotyping young people. The PSNI also introduced a youth champion's forum comprised of representatives from the third sector.

4.21 There is a high proportion of young people from a looked-after/care background represented in the criminal justice system. Around 30% of

admissions to the Juvenile Justice Centre (JJC) in 2006-07 came from that background. The issue of young people from a looked-after/care background being criminalised early in life because of strict organisational policies with regard to property and assaults on staff was raised in our report into the YCS⁹ as well as in our report on the JJC¹⁰ where trivial offences were identified as providing an opportunity to use custody as quasi-care. Whilst the wishes of the victims, in this case the care home owners or staff, must be considered, so too must the future affect of prosecution on looked-after children. Young people in such situations should be accorded the same sort of leeway as they would experience in a family environment where prosecution or reporting is in general not the first option in response to offending behaviour. In the event of incidents being reported, the justice system should take cognizance of the care home background in which these children find themselves in. Police officers consulted during the inspection said that they had recently seen a decrease in reporting as a first option by care home staff. Inspectors were given an example from the South East Trust area where family support panels had introduced elements of restorative practice as a first instance when dealing with young people in homes rather than calling the police as the first option. Prosecutors were aware of the disparity in figures and assured Inspectors that every case was dealt with on its own merits, taking into account all known factors including the care background of young people involved. **There should be careful future monitoring of the**

⁹ Youth Conference Service: Report on the Inspection of the Youth Conference Service in Northern Ireland; February 2008.

¹⁰ Inspection of Woodlands Juvenile Justice Centre; May 2008.



proportion of ‘looked-after/cared for’ children in the justice system to establish whether they are receiving equitable treatment as regards diversionary options.

Diversions conferences

4.22 This is an area that we have previously inspected and which has attracted interest from many other jurisdictions. Conferencing is seen as a very positive method of diversion when used appropriately. During this inspection concerns were still raised regarding:

- selection of the most appropriate cases for conferencing;
- the balance of needs of the young person and the victim;
- appropriate conference plans;
- repeat conferences; and
- adult centred conference environment.

We have previously commented on all these areas. However, as regards youth diversion, young people spoken to in the course of this inspection were generally positive about their experiences of youth conferencing with only a few exceptions. Selection of the most appropriate cases for conferencing is a matter for the PPS based on the evidence and recommendations of the police. The appointment of specialist youth prosecutors should begin to fine tune this area in the future so that appropriate referrals are made to all diversionary options available.

Developments

4.23 The Minister of Justice has recently announced a review of the youth justice system in Northern Ireland and has set

out the terms of reference for such a review. This will encompass many of the issues raised during this inspection as well as looking at the wider issues which we have mentioned but do not have the remit to inspect. As part of this review, it would be useful to include areas such as the interaction of other statutory organisations with justice agencies in a co-ordinated way to deliver real outcomes for young people.

4.24 The PSNI with the support of the YJA and PBNI have introduced a version of the Integrated Offender Management scheme which operates in other parts of the UK as a pilot project in ‘H’ District which covers the Ballymena area, and there are plans to extend the police elements of the project to other districts. Integrated Offender Management deals not only with young offenders but it applies a holistic approach to all priority offenders. Initial results for offences such as burglary and theft appear very positive, but it is too early to make a full assessment of the impact on or outcomes for young people. This area will form part of a future inspection in relation to persistent offenders.

CHAPTER 5:

Outcomes



- 5.1 Defining outcomes and reporting on them in the area of youth justice is a problem, especially when considering holistic approaches. The criminal justice system generally reports outcomes such as re-offending or reconviction rates, numbers of diversionary disposals compared with prosecutions, number of orders, referrals and conferences plans completed, and the numbers of young offenders held in the Juvenile Justice Centre (JJC).
- 5.2 The Youth Justice Agency (YJA) has included measures such as diversion from anti-social behaviour, parenting capacity, involvement in the community, and attendance at school. The agency also considers family factors such as domestic violence and siblings' involvement in offending behaviour when dealing with young people. In the South East Trust area an outcomes group monitors 'looked-after' children targets in health, education and crime and highlights any increase in criminal activity. The group also monitors employment outcomes such as the number of young people in placements. Third sector organisations also attempt to measure outcomes more holistically but produce less empirical data. Apart from the rates of re-offending and numbers of diversionary disposals outcomes could include the:
- percentage of looked-after children involved in criminal activity;
 - percentage of looked-after children on bail, in education, in employment etc;
 - percentage of young offenders on placement in community initiatives;
 - range of types of offending;
 - length of time between offences;
 - citizenship data (educational attainment, relationships etc); and
 - public and community confidence in youth justice.
- 5.3 Many of the outcomes outlined above have either not been measured accurately to date or, are in the course of being measured for the first time because of their recent introduction. If the youth justice system moves to a more holistic approach to dealing with youth offending following the review announced by the Minister of Justice, considerable effort will be needed to define outcomes for the system, society, and for young people, and to accurately monitor and measure those outcomes.
- 5.4 For the main police administered diversionary disposals and Figure 6 illustrates the current rates of re-offending recorded from 1 January 2008 to 31 August 2010.

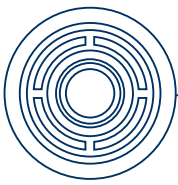


Figure 6: Percentage re-offending by age category (1 January 2008 - 31 August 2010)


Age	% Informed Warning	% Restorative Caution
10	29.8	55.6
11	46.7	45.1
12	37.5	56.5
13	43.1	56.8
14	44.3	59.3
15	41.3	57.2
16	39.2	54
17	22.1	26.6
Overall	38	51.4

The most recent figures from the 2006 cohort indicate that the rate of re-offending for diversionary conferences is around 38.4%. Re-offending measures a young persons subsequent involvement with the justice system as regards further diversionary disposals as well as criminal convictions. Some earlier figures measured only reconviction rates which excludes figures for diversionary disposals. Most recently (February 2010) reconviction rates (as opposed to re-offending rates) were reported as 44.3% for court-ordered conferences and 30.7% for diversionary conferences. Currently the reconviction rates from custody is 72.9% and 49.6% for probation orders. Young people in Northern Ireland who are convicted of crimes are less likely to receive custodial sentences than their counterparts in England and Wales.

5.5 Staff from across the criminal justice system told Inspectors that they regarded keeping young people out of

custody as a positive outcome. Young people also generally regarded this as a positive outcome. However, this needs to be considered carefully because a sizeable proportion of young people consulted who had been to the JJC told Inspectors that due to the circumstances of their home environment, they looked upon the centre as a positive option to help them get their lives back on track and to receive decent food, living conditions and education provision.

5.6 Apart from indicating the positive experiences young people had at the JJC, this further indicates the need for a holistic approach to youth diversion. There is little chance of keeping young people out of the justice system when the factors that increase the risk of them offending and re-offending are not addressed as part of an overall, cross-departmental approach. At the time of drafting of this report, 31 young people were being held at the JJC. A total of 18 of these young people were on remand,

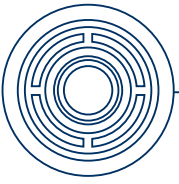


12 had been committed; and one was there subject to the Police and Criminal Evidence Order. The capacity of the JJC is 48. Running below capacity should be seen as a positive outcome for young people, the system and for society. At the time of drafting this report the number of young people under 18 being held in custody at the Young Offenders' Centre at Hydebank Wood was 17. Four of these young people had been sentenced whilst 13 were on remand. The average number of young people under 18 held at Hydebank Wood at any one time during 2010 was just over 14.

- 5.7 The high level of diversionary options and the subsequent low percentage of young people receiving a custodial sentence upon conviction is regarded as a positive outcome by many within the youth justice system. Figure 4 (see Chapter 3) shows that court ordered conferences are running at around 48% of the total number of conferences and the numbers of withdrawals at court due to a diversionary route being taken has also increased in the period 2008-09. Whilst on the surface this may appear to suggest that inappropriate cases are being brought before the courts and subsequently being diverted, a diversionary disposal cannot be considered unless the accused young person admits to the offending behaviour. This often happens at court before a hearing takes place.
- 5.8 A positive outcome for young offenders is that diversionary disposals do not necessarily result in them having a criminal record for the rest of their lives. Young people consulted during this inspection were very well aware of the later consequences to them of having a criminal record, especially with regard to

employability. The positive outcome of avoiding a permanent criminal record for first and/or minor offences is an important aspect of encouraging young offenders to desist from re-offending. It means that the positive behaviour of desisting from crime is encouraged and rewarded and crimes committed early in life do not prevent young people from taking up employment opportunities. This is an important element in decreasing the risk of re-offending. However, during inspection fieldwork it became apparent that rules on disclosure had meant that disposals such as informed warnings had been supplied to employers during employability checks through Access NI to the disadvantage of young people. If this continues, it could result in a decrease in young offenders opting for diversionary disposals and an increase in cases being tested at court.

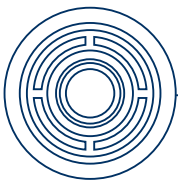
- 5.9 Diversionary disposals are not criminal convictions and should not therefore be disclosed as such due to the potentially damaging effect such procedures could have on young people. It is clearly wrong that young people who do not re-offend should suffer unnecessarily having received a diversionary disposal. At the time of drafting this report, Inspectors were told that the PSNI had agreed internally at the Chief Constables' Forum that diversionary disposals considered as 'spent' would not be visible to Access NI via the Criminal Records Viewer when running employability checks. This decision was to be implemented early in 2011.



Section



Appendices



Appendix 1: Methodology

Document review

Policies, procedures and other documentation relating to youth diversion from within the criminal justice system were examined. A review was undertaken of this documentation to cross-reference information against the topic areas and facts obtained later during the fieldwork. This was used also to design interview questions for the fieldwork phase. Additionally the following publications were examined and taken into consideration during this inspection:

- Alternatives to prosecution – A discussion paper; NIO, 2008.
- Barnardos: Parliamentary Briefing Paper on Youth Justice 2005.
- Beyond the Margins: Building Trust in Policing with Young People. Elizabeth Nelson, Ruari-Santiago McBride; Olivia O’Riordan; Paul Smyth ICR, Belfast. March 2010.
- Child and Family Poverty In Northern Ireland - A report prepared by Eithne McLaughlin and Marina Monteith for the Equality and Social Need Division, OFMDFM (2006).
- Childhood in Transition: Experiencing Marginalisation and Conflict in Northern Ireland, Siobhán McAlister, Phil Scraton, Deena Haydon November 2009. Queen’s University Belfast.
- Children’s Services Planning in Northern Ireland: Developing a Planning Model to Address Rights and Needs, Eamon McTernan & Ann Godfrey Child Care in Practice Vol. 12, No. 3, July 2006, pp. 219_240.
- Code for Prosecutors: Including a Code of Ethics.
- Debating youth justice: From punishment to problem solving? Eds Zoë Davies and Will McMahon, Centre for Crime and Justice Studies King’s College London.
- Designing effective local responses to youth crime; Irish Youth Justice Service. Dublin. 2008.
- Garda Youth Diversion Project, Procedures Manual, ESF 2007 – 2013 1st edition.
- It’s Never Too Early... It’s Never Too Late - The ACPO Strategy for Children and Young People; 2008.
- Make me a Criminal: Preventing Youth Crime. Julia Margo. Institute for Public Policy Research. February 2008.



- Memorandum by Thomas Hammarberg, Commissioner for Human Rights of the Council of Europe following his visits to the United Kingdom (5-8 February and 31 March-2 April 2008) Issue reviewed: Rights of the child with focus on juvenile justice CommDH(2008)27 Strasbourg, 17 October 2008.
- Metropolitan Police Service Community Safety and Partnership Unit Youth Strategy 2003 to 2008.
- NIAO: Creating Effective Partnerships between Government and the Voluntary and Community Sector. 2010.
- Northern Ireland Statistics and Research Agency Lyness, D. McEnarney, R. and Carmichael, M. Digest of information on Northern Ireland criminal justice system (4).
- Out of Trouble Making Amends: restorative youth justice in Northern Ireland. Jessica Jacobson and Penelope Gibbs; Prison Reform Trust.
- The Bottom Line: Severe Child Poverty in Northern Ireland (Monteith and McLaughlin, 2004).
- The Committee for Health, Social Services and Public Official Report: Youth Justice Agency of Northern Ireland, 18 February 2010 (Hansard).
- The European Rules for juvenile offenders subject to sanctions or measures.
- The Kilbrandon Report: Children and Young Persons Scotland, HMSO Edinburgh, reprinted 2003.
- United Nations Guidelines for the Prevention of Juvenile Delinquency (The Riyadh Guidelines).
- United Nations Standard Minimum Rules for the Administration of Juvenile Justice (The Beijing Rules).
- United Nations Rules for the Protection of Juveniles Deprived of their Liberty (The Havana Rules).
- UN guidelines for action on children in the criminal justice system (The Vienna guidelines).
- Young People's attitudes and experiences of Policing, Violence and Community Safety in North Belfast; Jonny Byrne, Mary Conway and Malcolm Ostermeyer; Northern Ireland Policing Board June 2005.
- Youth Crime: Young people aged 10-17 receiving their first reprimand, warning or conviction, 2000-01 to 2009-10 Ministry of Justice Statistics bulletin Published 14 October 2010.





- Youth crime and justice: Key messages from the Edinburgh Study of Youth Transitions and Crime; Lesley McAra and Susan McVie; Criminology & Criminal Justice 10(2) 179-209; 2010.
- Youth Justice 2004: A Review of the Reformed Youth Justice System. The Audit Commission, London, 2004.

Fieldwork and Consultation

One-to-one and focus groups, structured and semi-structured interviews were conducted with a range of personnel from the relevant agencies. Interviews were also conducted with stakeholders who had an interest in this area of work including young people accessed through community and voluntary organisations.

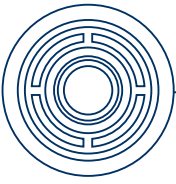
The following organisations or individuals were consulted during face-to-face semi structured interviews:

- Director of the YJA;
- Probation Board for Northern Ireland lead for PYOP and youth policy;
- PSNI lead and deputy for youth diversion;
- Director and Senior Research and Development Officer National Children's Bureau;
- Strategic Partnership Developer PSNI;
- Youth Justice Agency staff;
- Barnardos – Policy lead; Assistant Director Children's Services; Children's Service Manager; Lead for Restorative Practices in Residential Care; Manager Armagh Partnership; Newry Partnership;
- PSNI Youth Diversion Officers focus groups - urban and rural;
- Director of Include Youth;
- Human Rights lead Northern Ireland Policing Board;
- Lead and deputy Criminal Justice Board sub-committee on youth justice;
- Policy lead Children's Law Centre;
- Director of NIACRO;



- PSNI ACC Champion for Youth Justice;
- Assistant Director Safeguarding Children and Assistant Director Cared for Children South East Health and Social Services Trust;
- Manager Belfast RESPECT;
- Leads for Integrated Offender Management PSNI;
- Focus Group Young Persons and Director of Training for Life;
- Focus Group Young Persons and Director of Rathbone Belfast;
- Focus Group Young Persons and Director of Inner East Youth Project;
- Focus Group Young Persons and Manager of Challenge for Youth;
- Focus Group Young Persons and Director of Links Youth Work Project;
- Public Prosecution Service – Deputy Director; and
- Public Prosecution Service focus group youth specialist prosecutors.





Appendix 2: Terms of Reference

An inspection of Youth Diversion arrangements

Terms of Reference

Introduction

Criminal Justice Inspection Northern Ireland (CJI) proposes to undertake a thematic inspection of youth diversion arrangements across the criminal justice system in Northern Ireland. The inspection will focus on the three main elements of CJI's inspection framework as they apply to youth diversion. The approach to youth diversion across the criminal justice system will be assessed as regards Strategy and Governance, Delivery, and Outcomes (or projected outcomes). How youth diversion in Northern Ireland aligns with existing good practice and relevant standards where appropriate will also be evaluated.

Context

The United Nations and the World Health Organisation define 'youth' as being persons between the ages of 15 and 24 and most figures for youth offending produced by the UN reflect that. However, in Northern Ireland youth diversion arrangements since August 2005 have been generally applicable to persons between the age of criminal responsibility (10) and the age someone attains adult status (18). It is how youth diversion is applied to people in this age group that will be the subject of the inspection topic. The three **main** justice agencies involved with this inspection will be the Police Service of Northern Ireland (PSNI); the Public Prosecution Service for Northern Ireland (PPS); and the Youth Justice Agency (YJA). The Probation Board for Northern Ireland (PBNI) also has a role to play in youth diversion, for example, it is involved in partnership with the YJA in delivering a pilot project to deal with prolific young offenders (PYOP).

As the gateway to the criminal justice system for many young people, youth diversion arrangements in Northern Ireland are administered by the PSNI either acting alone or in partnership with the YJA and as directed by the PPS. The Northern Ireland Policing Board (NIPB) is currently conducting a study into Children and Young people and CJI proposes to adjust the amount of fieldwork and information requested from the PSNI so as not to overlap that study. CJI will be able to make use of the information collected during the study with the cooperation of the NIPB.

The aims of the PSNI Youth Diversion Scheme are:

- to provide an effective, fair, proportionate and restorative response to those offending, at risk of offending or involved in anti-social behaviour and provide satisfactory outcomes for victims;
- to identify those at risk of offending or coming to harm;
- to work with partner agencies to prevent children and young persons from offending/committing anti-social behaviour, using a range of initiatives; and
- to promote the needs of victims and community and where possible providing an opportunity for them to have their views heard, by engaging in the restorative process.



In the PPS Code for Prosecutors the section dealing with the public interest test states that *'However, there are circumstances in which, although the evidence is sufficient to provide a reasonable prospect of conviction, prosecution is not required in the public interest. For example, Public Prosecutors should positively consider the appropriateness of a diversionary option (particularly if the defendant is a youth).'* There is also a section dedicated to providing details of diversionary options including 'Diversionary Youth Conferences'.

The Youth Justice Agency Mission Statement is *'Our aim is to reduce youth crime and to build confidence in the youth justice system'*. The strategic aims of the YJA include:

- reducing offending;
- developing restorative justice; and
- delivering positive outcomes for young people.

The aims are delivered through the four directorates with Community Services, Youth Conference Service and Custodial Services each having an element of youth diversion built in, whether it is to divert young people from offending or re-offending.

Definition of Youth Diversion

For the purposes of this inspection and to encompass as many of the issues as possible the definition of youth diversion is being set wide. This means that diversion will be taken to include any of the activities of, and options open to justice agencies that, at one end of the spectrum are designed to divert young people from behaviour likely to lead to offending. At the other end of the spectrum it includes activities and options designed to divert young people from entering prison. The range of diversionary activity in between would also be included. Diversionary activity can range from early intervention with young people identified as being at risk of becoming involved in offending behaviour to options applied to young people who have offended and re-offended many times.

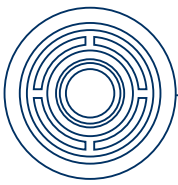
Aim and objectives of the inspection

The aim of the inspection is to examine and assess youth diversion arrangements across the criminal justice system in Northern Ireland (NI).

The objectives of the Inspection are to:

- assess the effectiveness of youth diversion arrangements in the NI system by collecting and analysing quantitative and qualitative information from organisations and stakeholders;
- examine the effectiveness of organisational strategies with regard to youth diversion and how they support and link with overarching youth strategies such as the 10-year Strategy for Children and Young people in Northern Ireland 2006;
- examine how youth diversion is delivered collectively by the criminal justice system and individually by organisations to meet needs and expectations of stakeholders and customers;
- examine and assess the outcomes of strategies and delivery mechanisms for youth diversion against targets and expectations; and
- examine how outcomes of youth diversion arrangements are benchmarked against other jurisdictions and alternative approaches to youth justice.





Methodology

The following methodology is proposed:

Research and review of documentation

A literature review will be conducted by CJI during April and May 2010. Each criminal justice organisation will be asked to supply CJI with all relevant documentation including reports, protocols and statistical data by the end of May. Using these submissions Inspectors will determine whether any further information should be requested from criminal justice organisations. Other stakeholders, such as the Children's Commissioner and relevant voluntary/community sector organisations will also be asked for views and submissions.

Fieldwork

Inspection fieldwork will be spread over the early summer months with agencies and stakeholders dependent on availability of key staff. Statistical and other information relevant to the inspection will be made available to CJI by the NIPB from their study into Children and Young People. Fieldwork will consist of structured and semi-structured interviews with appropriate staff at various grades in each criminal justice organisation and examination of statistical information (not including re-offending statistics) regarding cases for the period 1 January 2009 to 31 December 2009. The most recent figures for re-offending are from the 2006 cohort and these will be examined to help assess the effectiveness of youth diversion arrangements. For example, by determining the proportion of young people referred for diversion who go on to commit offences or who receive multiple referrals. Young people who have been involved with recent diversionary activity delivered by criminal justice organisations or commissioned by them will be consulted to gain insight into their first hand experiences and to assess the effectiveness of approaches in the view of the young people, their parents and/or carers.

Organisations will be asked to provide CJI with any statistics they collect to enable them to determine the effectiveness of youth diversion arrangements. Any necessary follow-up work and interviews with other stakeholders will be scheduled to take place during late summer 2010.

Design and Planning

Preliminary research work has been carried out which has identified relevant good practice, standards and guidance for youth diversion.

Delivery

The major stakeholders identified for this inspection are the PSNI, NIPB, PPS, YJA, PBNI, and, The Children's Commissioner, as well as a wide range of voluntary sector organisations involved with diversionary youth work.

Reporting and action plan

A draft inspection report will be produced by the end of August 2010 and shared with the participating agencies for factual accuracy checking in line with existing protocols.




Publication and Closure

Following factual accuracy checking by relevant agencies and internal CJI Quality Assurance (QA) processes the final draft inspection report will be sent to the Minister of Justice seeking approval to publish. Once permission to publish has been received from the Minister a date of publication will be identified by CJI and communicated to the main agencies involved in the inspection and to the Department of Justice (DoJ). A report and covering letter will be sent by CJI to other agencies and stakeholders identified as needing sight of the report prior to publication. A press release will be prepared by CJI and will be shared with the agencies involved and with the DoJ.

In addition CJI Deputy Chief Inspector Brendan McGuigan and Chief Inspector Dr Michael Maguire will perform QA and oversight of the inspection process as required and set out by the CJI inspection management system.





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