

# **Lewisham Youth Offending Service**

## **A brief guide to the Youth Justice System (YJS) and the Youth Offending Service (YOS)**

In dealing with any offence committed by a young person under the age of 18, the police have a range of options:

### **Out of Court Disposals**

#### **No further action (NFA)**

If a young person is arrested and the police do not pursue the case, this is known as taking 'no further action'. It is an acknowledgement that no action is appropriate or warranted in a particular case. This could arise if there is no substantive offence or if the young person makes no admission and there is insufficient independent evidence to charge them.

#### **Community Resolution**

Community resolution is the nationally recognised term for the resolution of a minor offence or anti-social behaviour incident through informal agreement between the parties involved. Community resolution is a tool to enable the police to make decisions about how to deal more proportionately with low-level crime and is primarily aimed at first-time offenders where there has been an admission of guilt, and where the victim's views have been taken into account. Community resolution enables police officers to use their professional judgement to assess an offence, taking into account the wishes of the victim and the offender's history in order to reach an outcome which best meets the needs of the victim and of the public. Community resolution may be delivered either with or without the use of restorative justice techniques. All community resolutions must be recorded on local systems and can be disclosed as police information if relevant to an enhanced criminal records bureau check.

#### **Triage**

Some areas will have access to diversion schemes, such as Triage – many of which operate in partnership between the police and the YOS. A Triage usually consists of one voluntary appointment with a YOS Support Officer and a possible referral on to a community organisation or other appropriate intervention.

#### **Youth Caution**

The Youth Caution is a formal out-of-court disposal which replaces the Final Warning Scheme. A Youth Caution may be given for any offence when the young person admits the offence and there is sufficient evidence for a realistic prospect of conviction, but it is not in the public interest to prosecute. The police must notify the YOS when a Youth Caution is given. Following a second or subsequent Youth Caution, the YOS must assess the young person and put in place a rehabilitation programme to prevent further offending, where it is appropriate. Participation in the interventions attached to a Youth Caution is voluntary and there is no separate penalty for failing to comply with them; however, failing to comply with the interventions would be a consideration in the choice of any future disposal options.

#### **Youth Conditional Caution**

The Youth Conditional Caution is a formal out-of-court disposal, but with compulsory assessment and intervention attached to it. A Youth Conditional Caution may be offered when a young person admits an offence, there is sufficient evidence for a realistic prospect of conviction and when the public interest can best be served by the young person complying with suitable conditions rather than a prosecution. The YOS must assess the young person and advise on appropriate conditions. The young person must also agree to accept the Youth Conditional Caution and the conditions attached which are monitored by the YOS. The

victim's consent must be obtained in any case where direct reparation or restorative justice processes are being considered or where the victim is directly involved in some way. Failure to comply with the conditions can result in prosecution for the original offence.

### **Charge.**

Charging an offender means that the case will be put forward for prosecution in court. The police may charge any summary-only offence irrespective of plea. They may also charge any either-way offence anticipated as a guilty plea and suitable for sentence in a magistrates' court, providing it is not one of the following:

a case requiring the consent to prosecute of the Director of Public Prosecutions or law officer  
a case involving a death

a case connected with terrorist activity or official secrets

a case classified as hate crime or domestic violence under CPS policies

an offence of violent disorder or affray

an offence causing grievous bodily harm or wounding, or actual bodily harm

a Sexual Offences Act offence committed by or upon a person under the age of 18

an offence under the Licensing Act 2003.

Prosecutors (normally the CPS) will make charging decisions in all indictable-only cases, any either-way offences not suitable for sentence in a magistrates' court or not anticipated as a guilty plea, and for specified offences. There are occasions when a young person has been charged, but a prosecutor decides that the case should be adjourned for consideration of an out-of-court disposal.

## **Disposals**

### **Referral Orders (RO)**

The referral order is a unique sentence directly involving the local community, by means of the volunteer youth offender panel members, in holding the young offender to account for their actions.

Where a young person is before a court charged with a criminal offence for the first time and pleads guilty, the Court must pass (in most cases) a referral order. The young offender if aged under 16 years old is required to attend a youth offender panel with their parents/guardian or local authority representative if under the care of the local authority and may be required to make restitution or reparation to their victim based on a restorative justice approach. The youth offender panel is headed by two volunteers from the local community and a member of the youth offending team. Under the order the young offender agrees a contract with the panel which can include reparation or restitution to their victim, for example, repairing any damage caused or making financial recompense, as well as undertaking a programme of interventions and activities to address their offending behaviour.

Under the current Guidance, panels should give victims the opportunity to attend a panel meeting at an appropriate time or times during the course of the referral order or to have their views represented subject to their wishes and informed consent. Victims should also have the opportunity of getting more information on the referral order process and the offender's progress if they would like to.

Under the terms of the Referral Order the young offender's progress and compliance with the contract is monitored by the panel which holds regular review hearings attended by the offender and which may be attended by their parents and/or carer (parents or local authority representatives will not always attend if the young person is 16 and over). In the event of non-compliance or where the offender refuses to agree a contract, the Panel can refer the young person back to the court which has the power to then re-sentence the offender.

### **Youth Rehabilitation Orders (YRO)**

The Youth Rehabilitation Order (YRO) is a generic community sentence for young offenders and combines a number of sentences into one generic sentence. It is the standard community sentence used for the majority of children and young people who offend. It simplifies sentencing for young people, while improving the flexibility of interventions.

The YRO came into effect on 30 November 2009 as part of the Criminal Justice and Immigration Act 2008 and represents a more individualised risk and needs-based approach to community sentencing, enabling greater choice from a 'menu' of requirements.

The following requirements can be attached to a YRO:

- Activity Requirement (reparation)
- Curfew Requirement (usually from around 7am – 7pm)
- Exclusion Requirement
- Local Authority Residence Requirement
- Education Requirement (SMART)
- Mental Health Treatment Requirement
- Unpaid Work Requirement (for 16/17 year olds)
- Drug Testing Requirement
- Intoxicating Substance Misuse Requirement
- Supervision Requirement (contact with YOS Officer or as directed)
- Electronic Monitoring Requirement
- Prohibited Activity Requirement
- Drug Treatment Requirement
- Residence Requirement
- Programme Requirement (usually offending behavior sessions)
- Attendance Centre Requirement
- Intensive Supervision and Surveillance (ISS)
- Intensive Fostering

### **Detention and Training Orders/Out on Licence (DTO)**

The DTO can be for a term of four, six, eight, ten, 12, 18 or 24 months, half of which is served in detention, the remainder in the community under the supervision of the YOS. It is available for young offenders who have been convicted of an offence punishable by imprisonment in the case of someone aged 21 or over. It is available for males and females.

Main features of the order:

- Provision for the early or late release of trainees, dependent on the length of sentence and progress against a tailored sentence plan.

- Those sentenced to eight months or more, but less than 18 months can be released up to a month before or after the halfway point. Those serving sentences of 18 or 24 months can be released up to one or two months before or after the halfway point.
- In the case of an early release, the power to release lies with the Secretary of State, in late release cases, the Secretary of State must make an application to the youth court for an increased period of detention.
- It is envisaged that the offender will be granted early release as recognition of very good progress, measured against an agreed sentence plan. Late release will occur when poor progress has been made by the offender to address their offending behaviour.
- Where young people commit very serious offences or repeatedly offend, the DTO will help ensure that custodial penalties which can be served in facilities which provide a positive and constructive regime are available to the courts.

## **Risk and Vulnerability**

Below I have taken information from the Youth Justice Board (YJB) that may give some insight into how a YOS rates young people in regards to risk of serious harm and vulnerability.

### **Risk**

Serious Harm to Others is defined as 'Serious harm means death or injury (either physical or psychological) which is life threatening, and/or traumatic and from which recovery is expected to be difficult, incomplete or impossible'.

#### **Low Risk**

There is no evidence at present to indicate any likelihood of future harmful behaviour.

#### **Medium Risk**

Some risk identified but the offender is unlikely to cause serious harm unless circumstances change. Relevant issues can be addressed as part of the normal supervision process (YOS sessions with case holder).

#### **High Risk**

Risk of harm identified. The potential event could happen at any time and the impact would be serious. Action should be taken in the near future and the case will need additional supervision and monitoring (e.g. supervision by middle/senior management, local registration)

### **Vulnerability**

Vulnerability has three main types:

- Child/young person indicators – e.g. depression, self harm and suicide.
- Family indicators – e.g. parental criminality, hidden harm – children of adults who substance misuse, domestic violence and abuse.
- Environmental indicators – e.g. housing, ETE.

The common themes which link these vulnerable groups are: isolation; lack of support; low self esteem; sense of powerlessness/helplessness; and uncertainty about the future. There are some important gender differences. Young men are more likely than young women to kill themselves, although deliberate self harm remains more widespread among young women. Child sexual exploitation and criminal exploitation (the crime behind the crime) such as 'county lines' – young people 'employed' to dispatch usually Class A but also Class B drugs across the country) are significant areas of concern that cross over between risk and vulnerability.

<http://www.justice.gov.uk/about/yjb>

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