



Public Accountability Meeting Out of Court Disposals

Chief Inspector Richard Ogden



Areas to cover



- Provide an overview of adult and youth Out of Court Disposals (O OCD) and how they are applied in North Yorkshire
- Oversight and scrutiny of O OCD
- Diversion schemes operating within North Yorkshire, with a focus on 'Crossroads' adult O OCD pathway.
- Youth Justice, with a focus on the Youth Outcome Panel
- The future impact of the Police, Crime, Sentencing & Courts Act 2022 on the adult O OCD landscape
- Plans moving forward



Out of court disposals

- Not intended for serious, persistent or contested cases, where court will always be the right forum for deliberation and adjudication.
- OOCs allow the police to deal swiftly, proportionately and appropriately with low-level offending without recourse to the courts.
- This may be achieved via reparative, rehabilitative or financial or conditions dependent on the disposal and circumstances
- An opportunity to provide intervention and support to address offending behaviour and potentially identify the root causes of offending at the early stages in criminal behaviour
- Vital that as either a victim or perpetrator we care about the people with whom we interact, whatever that reason for the interaction
- Provide a joined-up Criminal Justice partnership approach to support the victim and offender



Evidence led policing

An evidence review commissioned by the NPCC in 2018 about the use of Out of Court Disposals by Cambridge University found that;

- O OCD's, whether with conditions or without, are effective, compared to court prosecution, at reducing harm and reoffending and sustaining victim confidence and satisfaction. This finding applies to young offenders, young adults and adults;
- O OCD's are effective with low harm, low risk offenders but they may also be effective with moderate risk offenders;
- O OCD's with conditions appear to be promising in reducing harm, including domestic violence;
- In order to be effective, O OCD's with conditions must be implemented well, and three areas require particular attention: the eligibility screening of offenders; the needs assessment to match conditions to the offender; the setting and tracking of conditions;

Diversion - Challenges



- Wider research indicates that up-tariffing can increase re-offending: When interventions entail greater involvement in the justice system than would have otherwise been the case, such as disposals which require completion of conditions when there would have been no conditions beforehand, this evidence also suggests it can actually increase re-offending.
- Achieving the right balance in terms of identifying whether prosecution or a formal or informal OOC is suitable taking into consideration legal obligations, national and local guidance and the individual circumstances of the offence.
- Cultural challenges to overcome. Getting the 'buy in' from the police and the public to alternative outcomes.
- Ensuring the availability of suitable pathways and/or conditions

OOCD options for Adults



Cannabis/Khat
Warning

Community
Resolution

Penalty Notice for
Disorder (PND)

Simple Caution

Conditional
Caution

Outcome 22 –
Drug/Alcohol
referral,
'Crossroads'

Cannabis/Khat Warning



- Cannabis is a controlled drug under Class B of the Misuse of Drugs Act 1971. Cannabis warnings are a non-statutory disposal introduced in 2004 and are part of an escalation procedure for a first-time offence of simple possession of Cannabis. Providing there are no aggravating factors, an offender may receive a Cannabis Warning for a first possession offence
- A Cannabis warning applies to adults over the age of 18 years possessing Cannabis for personal use only. It is an informal, verbal warning given by a police officer to an offender, either on the street or in a police station. No more than one Cannabis Warning can be administered.
- Khat became a controlled drug under Class C in 2014. The process mirrors that of the Cannabis Warning.



Community Resolution Disposal

- Voluntary agreement generally between victim and offender which can include elements of restorative justice, and can be used for adults or youths. They are a method of dealing with an offender for a lower-level crime, in a way which is proportionate.
- Resolutions can be offered when the offender accepts responsibility for offending behaviour and, in most cases, where the victim has agreed that they do not want more formal action taken.
- By encouraging offenders to face up to the impact of their behaviour and to take responsibility for making good any harm caused, a community resolution can reduce the likelihood of their reoffending.
- The most appropriate offences to warrant a community resolution are likely to be low-level criminal damage, low-value theft, minor assaults (without injury) and anti-social behaviour. There is an eligibility criteria and some circumstances require supervisor authority
- Resolutions can include the offender being given advice about their behaviour, apologising or sending a letter of apology to the victim, or making some form of reparation such as repairing or paying for any damage done.
- Hate Crime Awareness course delivered by Restorative Solutions
- Challenges around repeat use and ineffective conditions

Penalty Notice for Disorder (PND)



- A PND is a statutory disposal established by the Criminal Justice and Police Act 2001. It is a financial punishment (fine) to manage low-level, anti-social and nuisance offending and can be administered on the spot or in a police station. It targets adult offenders aged 18 and over.
- PNDs can be issued for 29 specified penalty offences, including:
 - being drunk and disorderly in a public place
 - retail theft under £100
 - behaviour likely to cause fear, alarm or distress
 - criminal damage (up to a value of £300) and cannabis possession
- Two levels of PND fines can be administered (£90 or £60).
A PND recipient has 21 days in which to either pay the penalty or request a court hearing.



Adult Simple Caution/Conditional Caution

- Simple Caution - This is a formal warning given to an adult who has admitted an offence. It is used when it is not in the public interest to prosecute an offender. No conditions attached.
- Conditional Caution - This is a caution, with one or more conditions attached,
 - Conditions - Rehabilitation Reparation, or Punishment (financial penalty)
 - Rehabilitative conditions can include attendance at a treatment course. Reparative conditions can include apologising to the victim, paying compensation and repairing any damage caused. The conditions must always be appropriate, proportionate and achievable.
 - If the offender does not comply with the conditions then the police can review the breach and may escalate the disposal to a charge to court.



Outcome 22

This a Home Office (HO) outcome code intended to reflect where a diversionary, educational or intervention activity has been used to result a case that does not meet the public interest test to take any further action.

- It can be used where diversion is an alternative to prosecution (reduce first time entrants) such as via a deferred caution/charge pathway
- Much good diversionary work is done by policing, often in partnership with other agencies, that does not fall within a recognised OOC outcome within the current HO outcomes framework.
- Great value in the use of informal disposal options as an early intervention and likely to have a greater impact on reducing reoffending. Opportunity to prevent criminalisation, address the offending behaviour and provide support.

OOCD options for Young people (under 18)



Community
Resolution
Disposal

Youth Caution/
2nd Youth Caution

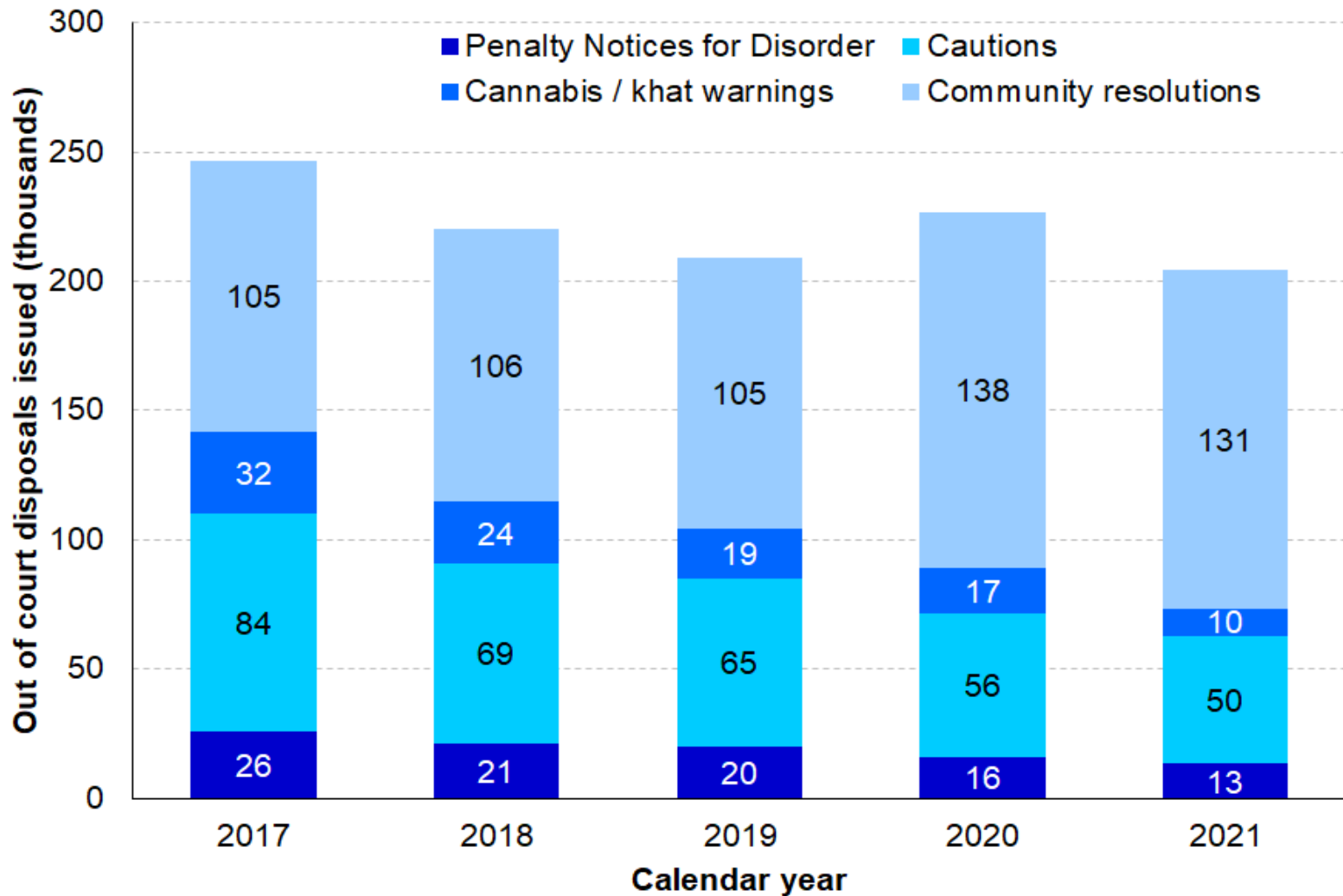
Youth Conditional
Caution

Outcome 22 – Op
Choice, Alcohol
referral, Route 22

Youth Caution (YC) and Youth Conditional Caution (YCC)



- Youth cautions/Youth Conditional Caution are statutory out-of-court disposal, introduced in 2013 under the Legal, Aid, Sentencing and Prevention of Offences Act 2012 (LASPO).
- The police can make the decision to offer a youth caution. The police must refer the young person to the youth offending team (YOT) for assessment and voluntary conditions if a second YC is being considered. However, **in North Yorkshire all decisions for YC are made via the YOP**
- A YCC is a caution with mandatory conditions attached that are appropriate, proportionate and achievable.
- The police consider whether an offender is suitable to be offered a conditional caution based on the national gravity matrix score and any previous interventions offered (if applicable). The young person must then be referred to the Youth Justice Service for mandatory assessment. Once the assessment is complete, the police and YJS together decide on the appropriate conditions to attach to the youth conditional caution. Compliance with the conditions is monitored by the YJS

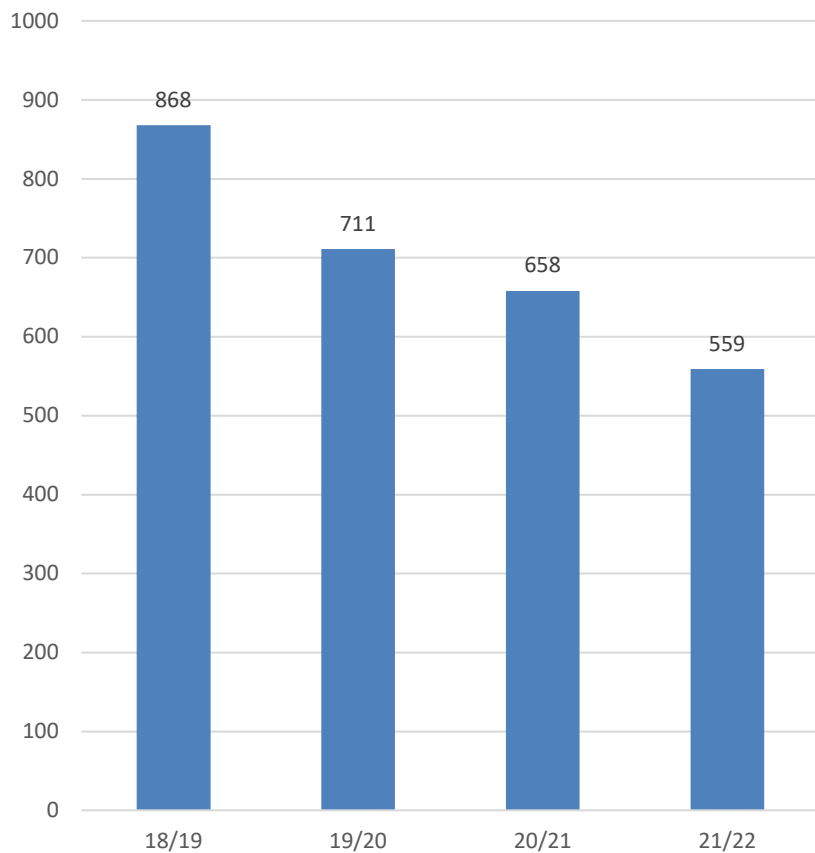


OOCs issued, 2017 to 2021, England and Wales
 (Source: Gov.uk Criminal Justice statistics December 2021)

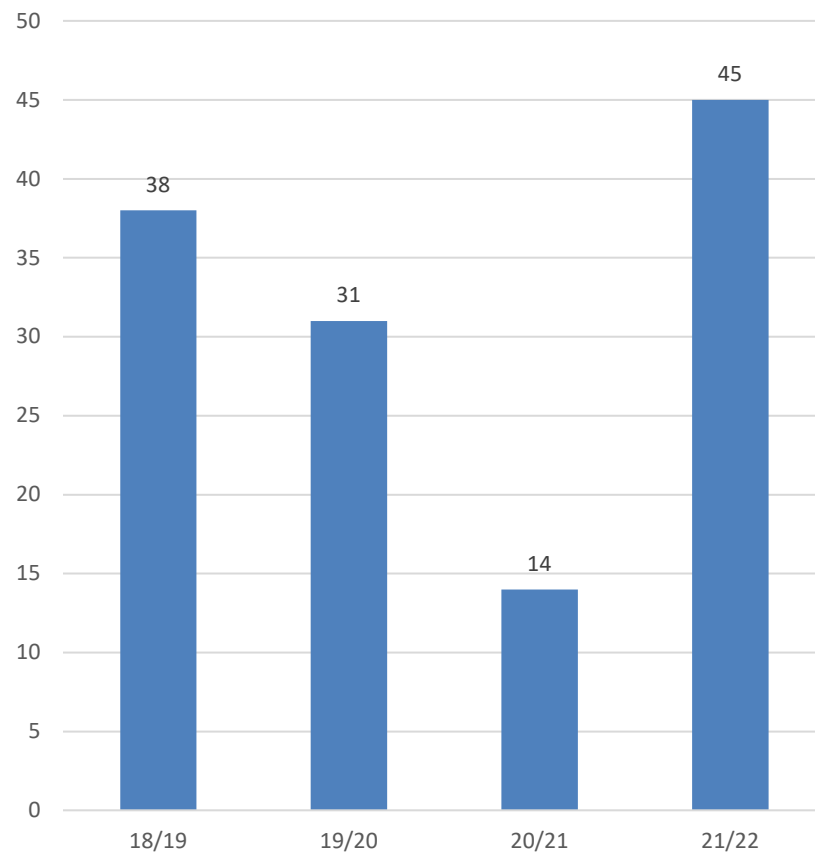


Use of Cautions in North Yorkshire

Adult Simple Cautions



Adult Conditional Cautions



Oversight and scrutiny



- Authorisation and administration of all OOC'D's must be completed lawfully, legitimately, ethically and in accordance with local and national policy and guidance.
- Supervisors are responsible for ensuring that officers use OOC'D's appropriately and proportionately.
- Gatekeeping functions and internal dip sampling
- We promote the appropriate use of OOC'Ds through guidance, training and monitoring as well as feedback to individual officers and their supervisors.
- Internal oversight/governance– OOC'D & Diversion Board, Business Development & Innovation Board (under the Local Criminal Justice Partnership)
- External oversight – Independent Scrutiny Panel, Youth Justice Service Management Board, Her Majesty's Inspectorate of Constabulary and Fire Rescue Service (HMICFRS)

Crossroads Pre-Court Diversion Scheme

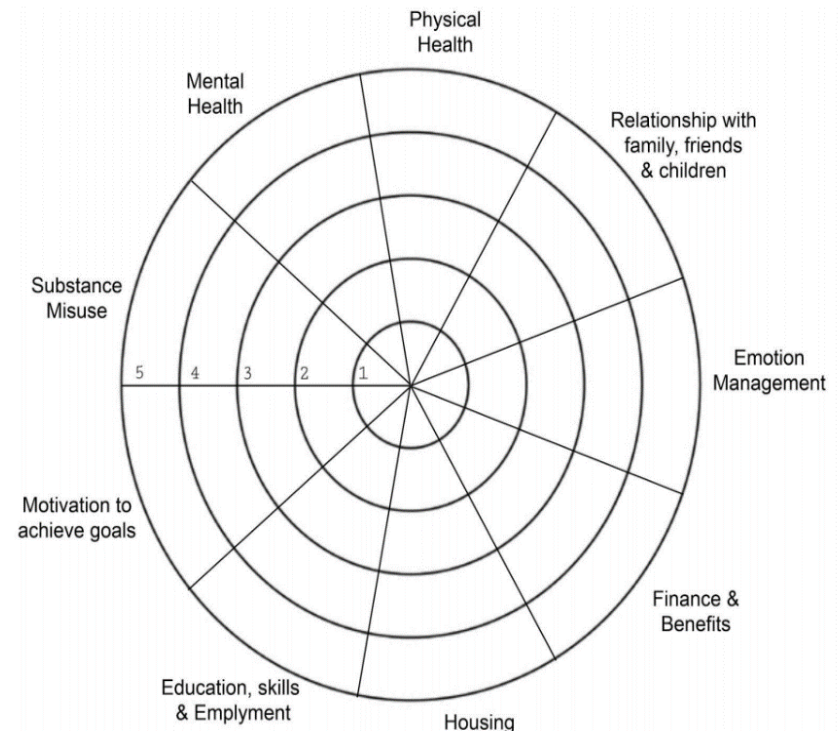


- **This route is for those aged 18+ who have committed a criminal offence and have been arrested or agreed to voluntary attendance** at a police station, where the outcome would normally be a caution or a charge.
- Launched in May 2021. Commissioned service from the OPFCC.
- There is an agreed eligibility criteria and if met then the offender may be deemed suitable for consideration of diversion
- The pre-court diversion route is an alternative to prosecution, if the individual agrees to a referral to the Crossroads diversion scheme then engagement involves agreeing to certain conditions which then become mandatory.
- There is a keyworker assigned to each case/client
- Lack of engagement may result in the traditional criminal justice process (caution or charge to court)

Crossroads Diversionary Scheme - Process



- Initial Assessment
- Identified Needs – Interventions agreed
- Support Plan conducted with keyworker
- Referral to Restorative Solutions
- Signposting/Referrals to Partner Agencies
- Continued Support

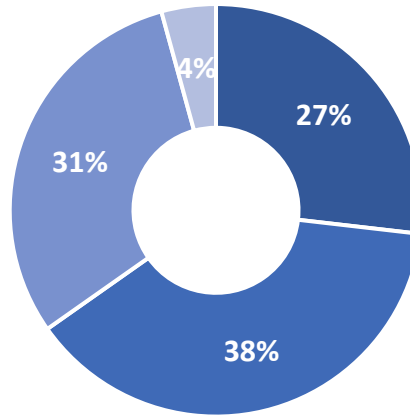


Crossroads Referrals by Age Group April 2022

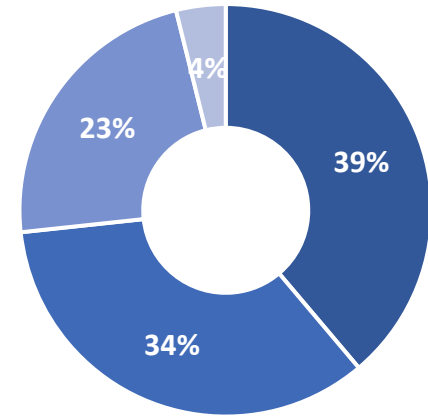
Women	April-22	May-21 to Apr-22
18-25	6	44
26-39	7	63
40-59	3	50
60+		7

Men	April-22	May-21 to Apr-22
18-25	9	80
26-39	11	71
40-59	5	47
60+	1	8

Women



Men

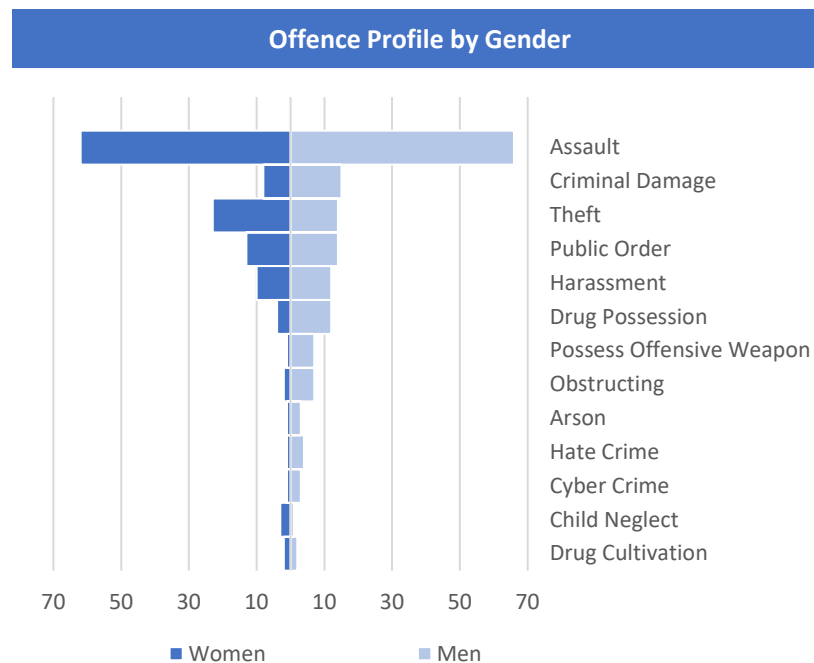


■ 18-25 ■ 26-39 ■ 40-59 ■ 60+



Crossroads Offence Profile (Out of Court Disposals) May 2021 to April 2022

Offence	Women	Men	Total
Assault	62	66	128
Theft	23	14	37
Public Order	13	14	27
Criminal Damage	8	15	23
Harassment	10	12	22
Drug Possession	4	12	16
Obstruction	2	7	9
Possess Offensive Weapon	1	7	8
Hate Crime	1	4	5
Child Neglect	3	1	4
Cyber Crime	1	3	4
Arson	1	3	4
Drug Cultivation	2	2	4
Wasting E/S Time	1		1



Crossroads Data



- From May 21 to March 22 - 330 referrals made to Crossroads, of which 257 were via the O OCD route
- Of those referred to the O OCD element of the scheme, 119 were women and 138 men. 77% successfully completed and exited the scheme and were diverted away from the Criminal Justice System.
- 80% of those who successfully exited the scheme had improved outcomes and of those who completed service-user feedback, 100% would recommend the service.
- A review is underway by the OPFCC to look at reoffending rates of those that have successfully completed the scheme

Crossroads Case Study



Case Study – Case C

- C was referred via the O OCD Diversion route by NYP following an incident of burglary and criminal damage. C stole his siblings Nintendo Switch and the family laptop, selling them to fund Cannabis use and drug debts. This was his first offence and he admitted to it fully in interview. C had been sleeping in a shed in the family garden. C's goals (whilst engaging with Crossroads) were;
 - to abstain from cannabis,
 - to be in his own accommodation and;
 - to be on better terms with family and to gain employment.
- Whilst on the programme, C completed sessions on cannabis use, managing emotions, finance and budgeting, conflict resolution, housing support and employment support. C is now in temporary accommodation, abstinent from cannabis, engaging with services, debt free, and his relationship with his family is much improved. After finishing all his requirements for his O OCD option, C is now engaging with us voluntarily for additional support until he moves into permanent accommodation.

Youth Justice



- Work collaboratively with Criminal Justice partners
- Seconded police officers working within the Youth Justice Service in North Yorkshire and City of York
- Partnership Hub – Schools Liaison officers
- Voluntary referrals – Change Direction , Triage & Diversion, Other OPFCC supported voluntary diversionary services
- Youth Outcome Panel

Youth Outcome Panel



Panel aims/responsibilities

- Established in 2017
 - Child and victim centred focus
 - Meets fortnightly – virtually or face to face
 - Police and YJS from NY and City of York – practice managers and victim liaison officers
 - In 2021 the Panel sat on 27 occasions, making decisions regarding 195 referrals.
- To encourage joint decision making between the police and YJS to promote positive outcomes for children, young people and victims
 - To enable restorative approaches with victims
 - To divert young people into services that seek to address the causes of their offending behaviour
 - To provide safeguards against inappropriate disposals, including inappropriate repeat cautioning and unnecessary entry into the criminal justice system
 - To reduce First Time Entrants to the Criminal Justice System
 - To ensure appropriate outcomes for disadvantaged young people e.g. Children in Care

Assessment and Decision Making



- All appropriate young people are referred by the police to the relevant YJS for an assessment to be prepared, covering their strengths, needs, circumstances and risks.
- Victims are contacted to ensure that the panel considers the impact of the offence, and to maximise restorative outcomes.
- In coming to a decision about an appropriate outcome, the Panel takes into account the following factors:
 - The young person's offending history, willingness to comply with possible interventions, the likely outcome if they were to be prosecuted, their engagement history and their personal circumstances, which will include their strengths and their family support networks
 - The seriousness and circumstances of the offence,
 - The views of the victim

HMI Probation review of Youth offending in North Yorkshire – September 2020



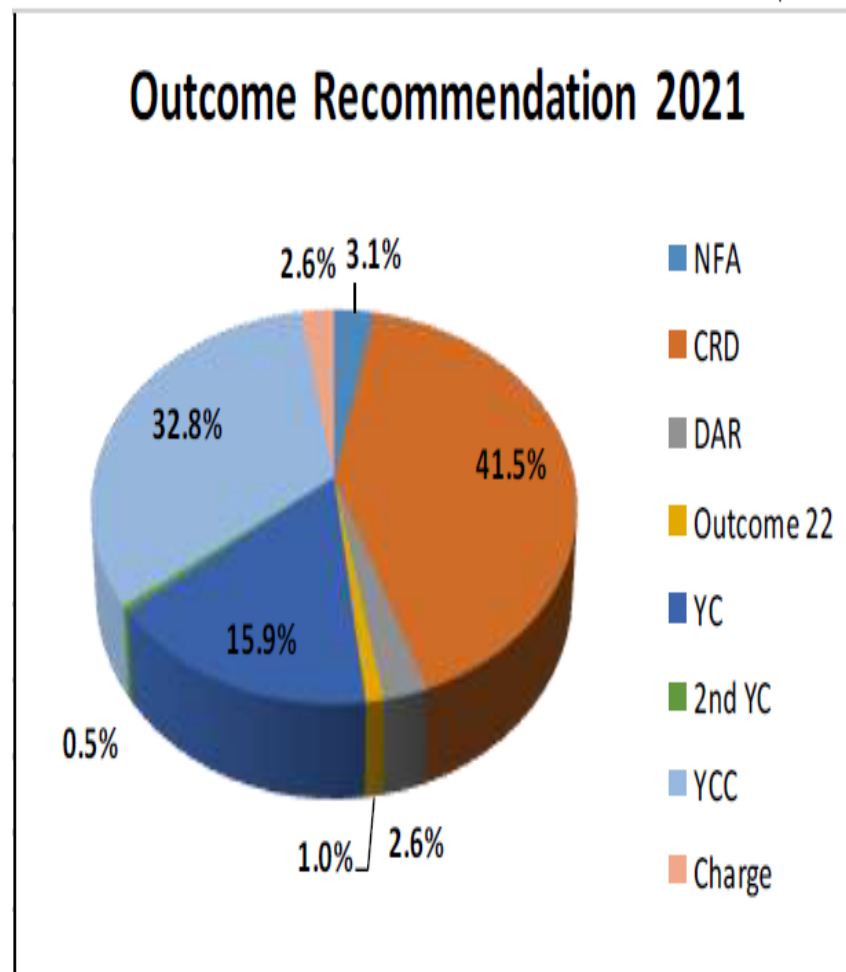
In relation specifically to the Youth outcome panel it was mentioned in the final report that;

- There are clear lines of accountability
- A wide variety of information is gathered to assist decision-making
- A good professional relationships between the YJS and the police enable the YJS to contribute effectively to decision-making for out-of-court disposals and, when needed, provide effective challenge.
- There is a shared culture of making decisions in the best interests of the child, while considering the wishes of victims.
- In every case, the rationale for joint disposal decisions was clearly recorded, and inspectors agreed with the decisions made in most cases.
- Recommendations made by the YJS considered the extent of the child's understanding of the offence and their acknowledgement of responsibility.



Youth Outcomes

- 85% reduction in First Time Entrants into the Criminal Justice system since 2017
- Reoffending rates after YOP are approximately 7.9% within 3 months and 26% within 12 months.
- 2020/21 - A welcome reduction was seen in the proportion of referrals from Scarborough District; however, it remains disproportionately represented in the number of First Time Entrants.
- 2020/21 - The percentage of children and young people who were re-referred to the Panel decreased, with those re-referred within 12 months down from 21.8% to 18.0%.
- 102 of 133 North Yorkshire Children at YOP in 2020/21 had no previous referral





New YOP outcome – introduced May 2022

ROUTE 22

No requirement for 28-day compliance i.e., CRD. Allows key worker at YJS to engage with child for longer

Similar to what is currently available for adult offenders via Crossroads.

Expectation that conditions will last no longer than 3-4 months

Non-compliance may be returned to panel for consideration of escalation to formal outcome. Something not normally available via CRD process

Great example of partnership working

Perfect for those on the cusp of a YC/YCC to offer an alternative to becoming a first-time entrant. Results in No further/formal action. Crime closed as Outcome 22

Police, Crime, Sentencing & Courts Act 2022



Changes to Adult OOCB Framework 1/4/23

Move to 2 Tier +
framework. Statutory -
Diversionsary Cautions
& Community Caution)

Focus on restorative
conditions

No more Simple
cautions, Cannabis
Warnings or Penalty
Notices for Disorder

Making the criminal
justice system work
better by improving
OOCB and diversion
schemes.

What are our challenges



- The impact of the changes and how we implement them effectively and with confidence in North Yorkshire.
- How to provide consistent and fair decision making to offenders based in North Yorkshire and beyond
- Ensuring we have an effective and available suite of conditions to attach to disposals.
- Informing the front line and ensuring appropriate ongoing support is in place to manage the changes
- Promote the changes simply and effectively

What are we doing to prepare?



- Dedicated OOCB police lead and project manager
- Establishment of an OOCB and Diversion Board in 2021
- Represented at NPCC and MOJ meetings and various working groups/forums
- Networking and scoping
- Engagement with internal and external key stakeholders
- Identifying how we can make this work practically and to get the 'buy in' and understanding from officers
- Business case prepared recommending introduction of an OOCB team to provide consistent decision making and support the front line.

Aims and Results over the next 12 months



- Ensure a state of readiness for the new Adult OOCDF framework in terms of decision-making, pathway expansion e.g. Crossroads and introduction of operational delivery model
- Seek to understand more about reoffending rates
- Create a mechanism for recording OOCDF disposals and associated conditions to enable data extraction as part of internal and external scrutiny
- Promote greater understanding and acceptance of Restorative Justice across all Criminal Justice outcomes
- Monitor and review the Youth Outcome Panel Route 22 initiative. Retain gatekeeper role at point of initial referral
- Supporting the drive for Prevention & Early Intervention and encouraging officers to 'Think Diversion' where appropriate via OOCDF and in the wider context via the 'Pathways' directory
- Supporting ongoing delivery of the OOCDF Independent Scrutiny Panel