

# Diversion from Prosecution Toolkit

## Diverting Young People from Prosecution

Young People Who Offend  
(Managing High Risk and Transitions)

June 2011

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<sup>1</sup> To access the Annexes please visit the Scottish Government's Whole System Approach website.  
<http://www.scotland.gov.uk/Topics/Justice/crimes/youth-justice/reoffending>

# Acknowledgement

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# 1. Introduction

## What is Diversion?

Diversion from prosecution is a formal decision by the Procurator Fiscal. On receipt of a police report the Procurator Fiscal can choose to divert the young person to a local social work team or other service provider. The provider should have specific expertise in working with young people. The young person undertakes a programme and/or is directed to services tailored to their particular needs that are designed to deal with the underlying causes of their offending. Intervention in this way keeps young people away from the formal criminal justice process and gives them the opportunity to make positive changes at a crucial time in their lives.

## Who should read this toolkit?

The guidance in this toolkit is for anyone who is involved in providing relevant diversion services for or in making decisions about young people aged 16 and 17 who offend, including:

- Police
- Procurators Fiscal in Crown Office and Procurator Fiscal Service (COPFS)
- Managers and practitioners in social work departments
- Staff in voluntary organisations providing services relevant to diversion
- Medical and nursing personnel
- Education staff

## What is this toolkit designed to do?

The aim of this toolkit is to offer guidance to service providers and decision makers on what they need to do to provide a more effective, tailored and appropriate intervention-in the form of diversion from prosecution- for young people who offend aged 16 and 17 years old.<sup>2</sup> It is part of the work to take forward the Reducing Reoffending Programme (the arrangements for implementing the Scottish Prisons Report published in July 2008) and is also linked to the Preventing Offending by Young People – A Framework for Action (a national strategy approved by Ministers in June 2008).

Research<sup>3</sup> and practical experience in the United Kingdom and elsewhere over the last 40 years have shown that involving young people who offend in the formal criminal justice system is often damaging for them and encourages further offending. It is also clear that offending behaviour by young people cannot be isolated from their personal circumstances and needs and that to focus solely on offending may not deal with the fundamental difficulties faced by these young people. Although 16 and 17 year olds subject to a supervision requirement are statutory children for the purposes of the Criminal Procedure (Scotland) Act 1995, those who are not subject to a supervision requirement lie outside this definition. Nevertheless, this Toolkit recognises the status of all 16 and 17 year olds as children under Getting It Right For Every Child (GIRFEC)<sup>4</sup> and the United Nations Convention on the Rights of the Child (UNCRC) and believes that this should be taken into consideration by those that make decisions and provide services for all those who are under 18<sup>5</sup>. Their status as children should be clearly acknowledged in decisions made about them

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<sup>2</sup> This does not mean that those over 18 should be excluded from youth justice diversion programmes as consideration should always be given to maturity and needs.

<sup>3</sup> <http://www.scotland.gov.uk/Publications/2008/06/30162955/0>

<sup>4</sup> [Tailored Services](#)

<sup>5</sup> Youth Justice Guidance [www.cjsw.ac.uk](http://www.cjsw.ac.uk)

and in the provision of services. Giving young people a real opportunity to address issues that are causing them difficulties offers them a route to a more positive and responsible way of life. This should also help to prevent re-offending.

This guidance should help in:

- Reducing the number of 16 and 17 years old being prosecuted<sup>6</sup>.
- Addressing problems and difficulties experienced by young people.
- Reducing the risk of re-offending.
- Promoting community confidence.

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<sup>6</sup> It is expected that this data will be analysed to monitor improvement – see page 14.

## 2. Principles

### What are the Key Principles on which this Toolkit is based?

Intervention with young people who offend should be:

- **Proportionate**  
Diversion should only be used where the offence is sufficiently serious to merit prosecution.
- **Prompt**  
Decisions should be made within a specified timeframe with account taken of the impact of any delay on the young person's willingness to engage.
- **Based on reliable information**  
If possible information should be obtained from all the key agencies working with the young person and their families.
- **Family focused**  
Where possible the young person's family should be involved in efforts to divert the young person towards more positive life styles and away from offending.
- **Fair**  
The selection of young people for diversion should focus on their particular needs. Assumptions about their suitability for diversion should not be made solely because of generic characteristics such as gender or disability.
- **Monitored**  
Feedback information should be provided on the young person's response to diversion. Diversion programmes should be evaluated regularly and the results made available to Community Justice Authorities and Criminal Justice Boards.

### 3. Priority target groups

#### Who should be the 'priority target groups' for diversion programmes?

Care should be taken in designing and implementing any diversion programme to ensure that it is used appropriately. Young people should not be diverted to social work programmes unless their offending behaviour is sufficiently serious to require such intervention. Many young people are better dealt with in other ways such as a warning, a fine or a compensation offer. Diversion should be seen as the highest tariff alternative to a prosecution and this approach should avoid net-widening and possible misuse of resources. There must always be sufficient evidence to prosecute before a young person can be diverted.

Diversion should be considered for all 16 and 17 year olds where there is sufficient evidence and the public interest does not require prosecution. Those who are 16 or 17 should not necessarily be exempt from diversion because:

- they have been diverted to a programme previously. There may be other factors to consider which indicate the young person will benefit from diversion;
- they have been diverted and are still working with services. It may be worth considering whether prosecution is appropriate if work to challenge the circumstances of their offending behaviour has not been completed;
- they are subject to a court disposal such as a [Community Payback Order](#).

There are some types of offences that may not generally be regarded as suitable for diversion. However, the facts and circumstances of a particular case may mean that diversion is an appropriate option, particularly given the young person's age. If there is a suitable diversion programme available, then consideration can be given to diversion programmes for offences listed below where the presumption is generally for prosecution. In the types of case listed below consideration for diversion should only be undertaken by COPFS in line with current prosecution policy for that type of offence and after the prosecutor considering the case has consulted with the District Procurator Fiscal:

- Offences of a sexual nature
- Domestic violence
- Hate Crime offences

The general presumption is that the more serious the offence the more likely it is that the prosecution will be merited to satisfy the public interest. After the public interest test has been met, the important factor to consider is whether there are appropriate services in place that could assist the young person. These services must address risks and needs of the young person in tailored and targeted ways.

## 4. 16 & 17 year olds subject to a Supervision Requirement

### Is diversion suitable for young people subject to a Supervision Requirement?

The *Joint Agreement in Relation to the Cases of Children Jointly Reported to Procurator Fiscal and Children's Reporter* sets decision-making standards for cases that are jointly reported to the Procurator Fiscal and Children's Reporter. The Joint Agreement aims to promote appropriate information exchange between the Procurator Fiscal and Children's Reporter and consistent decision making. It focuses on those young people who offend and who may be dealt with either in the Children's Hearings System or the adult criminal justice system or who are transferring between them. The Joint Agreement is available at: [www.copfs.gov.uk/Publications/2010/03/AgreePFChildrensReporter](http://www.copfs.gov.uk/Publications/2010/03/AgreePFChildrensReporter).

Offences committed by 16 and 17 year olds subject to a supervision requirement are required to be jointly reported to the Procurator Fiscal and Children's Reporter. Under the Joint Agreement there is a presumption that offences committed by 16 and 17 year olds who are subject to a supervision requirement will be dealt with by the Procurator Fiscal. This presumption may be overridden where the Procurator Fiscal is satisfied it is not in the public interest to prosecute the child having regard to the following factors:

- the gravity of the offence;
- the frequency of the offending;
- any significant health or development issues or evidence of vulnerability that point to the child's case being better addressed within the Children's Hearings System.

Where the Procurator Fiscal decides to deal with an offence committed by a 16 or 17 year old subject to a supervision requirement it would not then generally be appropriate for the case to be diverted from prosecution to a diversion programme. The assumption is that in deciding to deal with the case the Procurator Fiscal considers that it is necessary to prosecute the case in the public interest. However, in exceptional cases it may be that diversion is the best option for a 16 or 17 year old currently subject to a supervision requirement.

## 5. Types of diversion for young people who offend

### What is the preferred model of diversion?

**Waiver or Deferred prosecution** - Waiver and Deferred prosecution are the two models of diversion from prosecution that can be applied. Waiver provides that the Procurator Fiscal will 'waive' prosecution in (not proceed with) the case even where an individual does not complete the diversion programme and this is made clear to them from the outset. For deferred prosecution, a report should be provided following completion of diversion, setting out whether the individual engaged with the service and the outcomes of the programme. The Procurator Fiscal still has the option to prosecute as the young person has been advised that any prosecution is being deferred pending the results of that young person's engagement with the diversion programme.

This toolkit recommends the deferred prosecution model as it provides incentives to engage with services, resulting in better outcomes for the young person.

### What kinds of diversion programmes are available for young people?

**Social Work Diversion** – A referral from the Procurator Fiscal to the Local Authority Social Work Department to work with the young person to provide support, advice and opportunities to effect change in relation to problems associated with their behaviour.

Normally, under this programme, the young person will be involved in individual and group work sessions which, depending on the needs of the young person, will cover the following areas: offending behaviour, alcohol education, drug education, sexual health, social skills, employment & training opportunity and problem solving. Other agencies can be included where necessary, for example, the Fire Service. Annex A sets out the Dumfries and Galloway model of youth diversion which uses an educational/awareness based Programme. Annex B provides the modules used in the Aberdeen model of youth diversion.

Diversion providers should work with the Procurator Fiscal in assessing what the young person should be offered through the diversion programme. They will have to consider whether, and if so how, other agencies can provide resources that will contribute to the effectiveness of the diversion programme.

**Restorative Justice (RJ) Programmes** – Restorative Justice covers a range of practices aimed at addressing or repairing the harm caused by offending behaviour. Broadly speaking, an RJ process provides support for victims, as well as offering offenders the opportunity to take responsibility for their actions and make amends. The aim is to address behaviour in a way which empowers the people harmed, those responsible, and wider community members to resolve issues in a constructive way. RJ is aimed at those who have offended and participation is entirely voluntary - once embarked upon, either party can withdraw from the process. Annex C sets out the protocol between Crown Office and Procurator Fiscal Service and Sacro.

**Motoring Offence Diversion** – The programme should make a driver of any age aware of their poor driving behaviour and if possible result in improvements to that behaviour without the need to bring the case to court. These programmes can be provided by private providers or included in social work diversion programmes. Aberdeen has addressed motoring offences using their cognitive modules (Annex B).

**Psychiatric Diversion** - It is not recommended that separate psychiatric diversion programmes should be established. But clearly some young people who offend may benefit

from engagement with psychiatric or psychological services. Annex D suggests ways in which providers of diversion programmes or services can access psychiatric services for young people.

### **What other measures can be used as an alternative to prosecution?**

**Flexible Approach to Offending** – This approach, which is managed by the police, aims to prevent future offending and antisocial behaviour by children and young people and provide interventions which are timely and proportionate, whilst at the same time alerting other agencies to concerns which exist about a child's or young person's well-being. This approach will include 16 and 17 year olds *[link to follow when final paper published]*.

**Direct Measures** – The Procurator Fiscal can also use other Direct Measures such as: a warning, paying a fine or the option of paying compensation. Direct measures are generally regarded as lower tariff than diversion to social work or to a restorative justice programme.

## 6. Information sharing

### What kind of information should be collected before a decision is made to divert?

Diversion from prosecution involves a referral of someone accused of an offence to a local social work team or other agency. This requires the exchange of relevant and sometimes sensitive information between the Crown Office and Procurator Fiscal Service and the service provider. This can include information exchange between statutory and voluntary organisations. Whilst it is important to ensure that the necessary protections and protocols are in place for exchange of sensitive information, in line with Getting it Right for Every Child all appropriate information should be shared in relation to the young person's needs and risks.

In requesting a report or information from a diversion service provider, the prosecutor will wish to consider the following criteria:

Person responsible:

- (a) Age and gender, if known;
- (b) The name, address and, if possible, telephone details and his or her parents' or guardians' details;
- (c) The date, time and nature of the offence;
- (d) The existence and age of any co-accused;
- (e) The extent of any damage or harm caused to an identifiable person(s) and/or other affected persons;
- (f) Any risk factors or vulnerability, including his or her family situation, if known;
- (g) Involvement of the Local Authority Social Work Department or other relevant agencies, if known;
- (h) Any previous participation in any service or process, if known;

Person harmed:

- (i) Age and gender
- (j) The name, address and, if possible, telephone details his or her parents or guardians
- (k) Any risk factors or vulnerability, including his or her family situation, if known;
- (l) Involvement of the Local Authority Social Work Department or other relevant agencies, if known;
- (m) Any previous participation in any service or process, if known.

Information sharing protocols must be agreed and signed off by seniors in the local Procurator Fiscal Office and by the service provider. (Some examples of protocols that currently work well are given at Annex E.) Any protocol should take account of the following key aspects of effective and secure information sharing:

1. The service provider undertakes to supply the Procurator Fiscal with updates on all referrals that are accepted. Parties need to agree on how often such updates will be provided.

2. The service provider further undertakes to supply the Procurator Fiscal with details of all cases that are closed due to successful completion. Parties need to agree on how often such updates will be provided.
4. Young people who agree to participate in diversion programmes must give their consent in writing, co-signed by their parent/guardian if applicable, to the sharing of information regarding their offending behaviour between all agencies involved, whether this data is held on computer or otherwise.
5. Disclosure of information by the Procurator Fiscal to the service provider will be restricted to named persons in accordance with an agreement reached by both parties. Whilst the Procurator Fiscal will co-operate with the service providers wherever possible, there will be no absolute requirement on him or her to disclose information if such disclosure is considered to be unnecessary (not relevant to the offence or consequences) or might be undesirable (detrimental to the young person or victim).
6. Information disclosed by the Procurator Fiscal will only be used by the service provider in relation to their work concerning diversion of the person responsible. It will not be used by the service provider for any other purpose.
7. Information disclosed by the Procurator Fiscal will be relevant and not excessive to enable the service provider to make an assessment of the appropriate service for an accused/person responsible (and where appropriate the person harmed/victim). Whilst every effort will be made to ensure the information is accurate and up to date, this cannot be guaranteed by the Procurator Fiscal. Information which is thought by the service provider to be inaccurate will be returned to the Procurator Fiscal for checking and, if necessary, correction or deletion.
8. Information which is personal information within the terms of data protection requirements can be disclosed by the Procurator Fiscal provided that the data protection purposes of the agency to which the information is disclosed allow for such disclosure.
9. Information will be treated as 'confidential' and will be held by the service provider under secure conditions. It will be accessible on a strict 'need to know' basis.
10. Information will not be retained by the service provider for longer than is necessary for the aims of the diversion programme to be accomplished. Thereafter it will be disposed of as soon as practicable using confidential waste facilities.
11. All agencies involved in diversion must operate within the terms of the Data Protection Act 1998 and signed information sharing protocols must be in place and revised at regular intervals.

## 7. Links between Decision Makers and Service Providers

### Why create and maintain good links?

Relationships between service providers and decision makers are vital to making diversion a success, including the sharing of relevant and appropriate information. Evidence<sup>7</sup> demonstrates that the ability of the Procurator Fiscal and the Diversion Programme Co-ordinator/contact (see below) to discuss the suitability of a case and the available option is fundamental to the process. If possible, this should be formalised to one or more of the following:

- Weekly/fortnightly meetings between relevant organisations and the Procurator Fiscal;
- The use of a 'prompt system' to confirm whether diversion has been considered;
- Regular phone calls; and
- Visits/awareness raising events.

A central co-ordinator role is preferable to link up information from the police, social work, education, health and others involved with the child. A single point of contact within the local Procurator Fiscal Office will also assist in stream lining the process. These two things combined will make it easier to:

- help ensure consistency and continuity of the referral process;
- keep to agreed timescales;
- ensure that young people referred to the process are kept informed;
- ensure that victims of offending behaviour are updated on outcomes; and
- feed back to the Procurator Fiscal on the outcome of the case.

The central co-ordinator role could be from any agency or service involved, for example, police or social work. It is essential that the Central Coordinator has access to all relevant information.

An understanding of services that can be provided and the priorities of partner agencies will greatly assist decision makers. As diversion programmes will vary, a list of the risks and needs that can be addressed by each programme within each local authority area should be available to the Procurator Fiscal. The Procurator Fiscal can only divert cases where they know that the appropriate services are in place.

In some areas of Scotland the important links and relationships between agencies and services will already exist through multi agency Youth Justice Groups or the implementation of GIRFEC and these should be capitalised upon. Where these exist for under 16s only, consideration should be given as to whether they can be adapted to accommodate 16 and 17 year olds. This may provide savings in staff time, for example, where multi agency meetings already exist there may be a possibility of using this forum to discuss cases for diversion.

A model of possible links and process is given at Annex F. Ultimately it is understood that each local area will have varying degrees of agency input and services but building the links should create a wider appreciation of how we can work together in reducing offending behaviour and appropriately diverting 16 and 17 year olds. Evidence suggests that good local relationships can have a direct impact on the success of a diversion programme<sup>8</sup>.

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<sup>7</sup> <http://www.sccjr.ac.uk/pubs/Diversion-from-Prosecution-to-Social-Work-in-Scotland/298>

<sup>8</sup> <http://www.sccjr.ac.uk/pubs/Diversion-from-Prosecution-to-Social-Work-in-Scotland/298>

A young person may be reported for an offence committed outwith the local authority where they live and their case may therefore be reported to a procurator fiscal office that does not have links with a social work office or service in the young person's area. This in itself should not preclude that young person from being diverted if they meet the tests set out at page [5](#). Every effort should be made to contact the young person's local Social Work Office to ascertain whether a service can be provided. This can be done either by the Procurator Fiscal or the local co-ordinator.

The police should also consider whether they have a role to play in flagging cases on the SPR2 as suitable for diversion. The police, during their investigations, may become aware of information that leads them to believe that the case may be suitable for diversion. The decision on this matter will remain with the Procurator Fiscal; however, it may be helpful for the Procurator Fiscal to know the police view on this matter.

## **8. Young people subject to a Community Payback Order**

### **Are there opportunities to divert young people from prosecution when they are subject to a Community Payback Order?**

Local relationships between the police and social work could also assist in considering new offences where a young person is subject to a Community Payback Order. Under 18s made subject to a Community Payback Order will have a supervision requirement put in place. This means that they will have an allocated worker who will provide support to fulfil the requirements of their Community Payback Order. The allocated worker can also provide support on personal motivation, behaviour change, anger management, substance misuse, engagement with education, training or employment, support with accommodation issues and individual counselling. There are nine requirements that can be imposed as part of a Community Payback Order and, depending on the circumstances of the case, there may in limited situations be other requirements attached, for example a mental health treatment requirement. These could also be contributing additional support to the young person.

If during this period a new offence is committed, there is an opportunity to flag this offence with the relevant Social Work Office as they will be working with this young person on some of the issues noted above. How the allocated worker is made aware of these offences will need to be agreed at a local level between police and social work but this can be done using a weekly list of offences. Other arrangements will need to be made for custody cases. The allocated worker can then contact the Procurator Fiscal for consideration as to whether prosecution is necessary when work is ongoing with the young person. These measures should help ensure that young people are not subject to a higher tariff intervention than necessary.

## 9. Tailored services to meet the needs of young people

### Why have diversion tailored to meet the needs of young people?

Getting it right for every child (GIRFEC)<sup>9</sup> is the foundation for work with all children and young people, including 16 and 17 year olds. It builds on universal health and education services, and is embedded in the developing early years and youth frameworks. It has been implemented across Scotland; therefore the development of any services for children and people should be based on the GIRFEC model.

GIRFEC aims to improve outcomes for all children and young people. It promotes a shared approach that:

- builds solutions with and around children and families;
- enables children to get the help they need when they need it;
- supports a positive shift in culture, systems and practice; and
- involves working together to make things better.

Young people aged 16 and 17 have different needs and circumstances and adult services may not be appropriate for them. Research<sup>10</sup> indicates that young people in this category are still maturing and often demonstrate a lack of cognitive development which manifests in poor problem solving skills and consequential thinking, requiring an increased level of support to enable them to change their behaviour.

### What should a tailored diversion programme include?

Using the GIRFEC principles a successful diversion programme should:

- have a multi-agency approach (including information sharing);
- provide services that address the needs and behaviour of the young person on an individualised basis, (including gender<sup>11</sup>). A wide range of services should be available to address specific needs or risks, as opposed to fitting the young person into a service which may not be appropriate;
- an appropriate assessment should be undertaken (with partner agencies) to decide the most appropriate type of diversion programme ;
- make families aware of the purpose of diversion and intended outcomes (see Annex G for an example), involving them where appropriate;
- consider whether group work or individual work will provide better outcomes for the young person.

It will be important that diversion programmes address a wide variety of behaviours. Procurators Fiscal can only refer cases for diversion if they can be satisfied that the issue causing offending or the nature of the offending behaviour can be addressed. The Procurator Fiscal must dispose of a case within set timescales and it will therefore be essential that diversion programmes are completed within these timescales. However, in exceptional circumstances it may be possible to continue working with a young person following a report to the Procurator Fiscal (which marks the formal end of diversion). It may

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<sup>9</sup> GIRFEC - <http://www.scotland.gov.uk/Topics/People/Young-People/childrenservices/girfec>

<sup>10</sup> <http://www.sccjr.ac.uk/pubs/Criminal-Justice-Transitions-Edinburgh-Study-of-Youth-Transitions-and-Crime-Research-Digest-No-14/39>

<sup>11</sup> Worrall A, (2001) 'Girls at risk? Reflections on changing attitudes to young women's offending': Probation Journal. June 2001;

be that the diversionary work is providing good outcomes but more time is necessary due to the young person's complex needs.

In some cases restorative justice or social work diversion may be appropriate but the young person still has a clear need of support that will not be addressed by these options. It will be important in such cases to ensure that they are signposted to the necessary service or support. Where possible a referral should be made on their behalf. Other services that may be required could include those concerning:

Mental Health (see Appendix B – pathways to psychiatric care)

Learning disabilities

Learning difficulties

Drugs, Alcohol

Careers, Education

Anger management

Parenting support (young parents)

Domestic abuse<sup>12</sup>

Housing support

Advocacy

Sexual Health

Benefits/Financial advice

Counselling

The lead professional should also take account of any services that a young person is already engaged with. Care leavers, for example, may be in receipt of support for housing, finance, education and training. Using the GIRFEC model will ensure that these supports are delivered coherently and duplication is avoided.

## **Equalities**

Care should be taken in drawing up diversion protocols to ensure that they do not unintentionally discriminate, for example, prioritising one group of young people over another. It will be important to ensure that there are services in place to meet the differing needs that can be presented by 16 and 17 year olds but this should be about having a service in place rather than prioritising one or more groups for diversion. Young people should be considered for, and therefore potentially have access to, a youth justice diversion programme regardless of their gender, race, faith and belief, sexual orientation or disability.

An Equality Impact Assessment has been carried out on this toolkit and is available at:

<http://www.scotland.gov.uk/Topics/People/Equality/18507/EQIADetails/Q/Id/647>

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<sup>12</sup> Referral of 16 and 17 year olds who are charged with domestic abuse can only be undertaken in exceptional circumstances- [see page 5](#)

## 10. Monitoring and evaluation of diversion services

Monitoring and evaluation is an important element in providing a diversion programme, particularly in protecting the service by being able to demonstrate that it provides good outcomes for young people and wider social and financial benefits. It also provides opportunity to identify areas for improvement. It is key to informing policy and strategy development, since policy and decision makers must be satisfied that diverting young people from formal measures provides long term positive outcomes.

Effective monitoring and evaluation of diversion from prosecution programmes and services for 16 and 17 year olds should consider the following guidance.

### **Procurator Fiscal Service**

It is important that Procurator Fiscal Offices are able to collect the following data:

- If different diversion programmes are available (e.g. Social Work, Young Drivers etc.) the level of referral to each programme.
- Age, gender, race, and if possible, religious belief and disability breakdown of young people (may not always be available).

### **Youth Justice Team (Service Provider)**

- Number of days to respond to PF indicating young person meets referral screening criteria.
- Number of days from referral to completion of assessment.
- Date of completion of Diversion Contract by young person.
- Number of appointments/ sessions offered and number completed.
- Programme evaluation from staff and partners (police, health, Scottish Prison Service, Skills Development Scotland etc.) delivering the programme.
- Programme impact.
- Date of submission of completion reports to PF.
- Measure of staff time spent on service planning and delivery.
- The average cost per referral to the service.
- % of Young People referred back to Procurator Fiscal for refusal to participate or non-compliance.

### **Police (as referrer to Procurator Fiscal)**

- Number of young people aged 16 & 17 years reported to the Prosecutor Fiscal for offending.

- Number, age and postcode of young people highlighted as appropriate for consideration in relation to diversion from prosecution.
- Views of police constables in relation to the importance and effectiveness of service.
- % rate of all young people (aged 16 & 17) referred to a diversion programme as an alternative to prosecution in relation to the overall numbers of young people reported to the Prosecutor Fiscal.
- Recidivism rates - % rate of young people referred to a diversion programme who are reported again for further offending measured at 6-monthly, 12-monthly or 24 monthly intervals on completion of diversion.

### **Prosecutor**

- Views of PF in relation to the current arrangements.
- Views of PF in relation to the importance and effectiveness of service.

### **Young person(s) parent(s)/guardian(s)**

- Young person's views and attitude to the service and programme offered (completion form).
- Parents'/ Guardians' views and attitude to the service (completion form).
- Young person's views of the impact of crime on victims (victim awareness sessions).

### **Other recommendations**

Effective evaluation should include, where possible, evidence of savings through not prosecuting. It should also include a level of independent interviews with agencies, young people, parents or guardians and where appropriate victims. Such interviews would offer some qualitative information in relation to the effectiveness of a service.

## 11. Protection of diversion programmes

### What about joint working across Local Authority areas?

Linking up programmes and protocols across Local Authority or Community Justice Authority areas should be considered. It could provide efficiency savings in using the same services for a larger number of young people and arrangements to jointly fund external programmes and projects would reduce organisational costs. If services are provided in-house, these can be shared across authorities with consequent reductions. These arrangements can also provide other benefits, such as:

- one point of contact across the board for liaison with the key external agencies, such as the prosecutor and the police, improving consistency and enhancing good relationships
- greater scope for development of specialist work within the staff groups
- shared monitoring and evaluation.

A good example of this is the pan Ayrshire approach to diversion from prosecution (See Annex I).

### Effectiveness of diversion

Increasing the number of 16 and 17 year olds diverted from prosecution and raising awareness of the robustness of the service is important. Maintaining a high profile and demonstrating the outcomes achieved will make the withdrawal of funding less attractive. Good practice in this area includes:

- awareness raising events for decision makers
- robust monitoring and evaluation
- good relationships, one point of contact (possibly a coordinator).

### Efficiencies and savings

The interim report from the Whole System Approach in Aberdeen identified:

#### ***'Non - financial benefits***

*It is undisputed that a range of 'non-financial' benefits have been provided by the programme since its inception and these are detailed below. These benefits relate to activities which have positively impacted on the youth justice environment, but have no 'cash releasing' element associated with them.*

- ***There is positive and improved partnership working in place.*** A range of Public sector agencies are working together co-operatively and are taking 'real' responsibility for getting things done. This collaborative working is focusing on a common aim where the 'value' generated is key. There is an increased trust and openness across boundaries, with a willingness to make changes. This has resulted in:
- ***Sharing of information, advice and support across organisations-*** evidenced by the partners all working together to support each other in the provision of 'Intensive Support Services';
- ***Sharing of paperwork across agencies*** – evidenced by sharing of risk assessments to speed up the process and avoid costly duplication of effort and paperwork;
- ***Dropping of the boundaries across the Voluntary Sector Organisations*** – evidenced by different commissioned organisations putting their commercials aside and working openly together e.g. Apex have had open discussions seeking advice for Barnardo's;

- **Improved understanding of where people and organisations fit in the overall system, the role of individual agencies and how they relate to other agencies.** Through partnership working and regular meetings and interaction, agencies now believe that they have a much better knowledge and understanding of the roles and responsibilities of partner agencies. This has allowed for improved working relationships and better decision making.
- **Greater engagement with Health and Education services.** Through the introduction of PRS, and ISS, both Education and Health services are getting involved earlier in working to address the needs of young people and offending. This engagement has begun to see benefits generated already, although there is still more to be done in this area.
- **Introduced a robust 'Challenge Mechanism'.** The programme has supported organisations to question and challenge the services which are provided; their current 'ways of working', their practices and values. Organisations are now thinking about the delivery of their own services and considering whether it fits the needs of the service user. This has been a distinct change of behaviour, but a welcome one in the current financial climate.
- **Commercial Awareness.** The programme has been a catalyst in making people and organisations become more 'business' focused and commercially aware with a focus upon and transparency of how to spend money appropriately in the delivery of appropriate, timely and proportionate services.
- **Virtual Teams developed.** Teams are being created which focus around an individual child and their needs, rather than being constrained by individual organisational boundaries.
- **Analysis of Offending Behaviour.** Through the provision of more effective and timely information, offending behaviour is being analysed and assessed via the PRS meetings.
- **Reduction for YJMU [Youth Justice Management Unit] staff completing police database checks.**
- **Profile of GIRFEC has been raised.** The GIRFEC agenda has been highlighted by the YJDP and barriers which will impact on the ability to implement GIRFEC have been identified.
- **Cultural change facilitated.** The programme has facilitated a shift in mindset from one of 'punitive' to 'working with' children with offending behaviour. This is a significant change and although not all stakeholders have fully embraced this shift, there is a perception that a large step has been taken in this new direction.
- **Personal development for staff.** There has been increased learning for staff in all agencies about the broader agenda for reducing re-offending and the adoption of the WSA. People involved in the programme have been given the opportunity to widen their skills set and are now able to demonstrate the ability to change and cope with new initiatives.

### **Efficiency Savings [specific to diversion from prosecution]**

The data provided for the forecast period 2010/2011 indicates a 20% increase in the diversion rate from prosecution of 16 and 17 year olds reported to the PF (i.e. diverted through: Fiscal Direct Measures, including diversion from prosecution; and no proceedings). This is a 50% diversion rate compared to 30% for 2009/2010).

- Consequently, this leads to a:
  - **Reduction in Procurator Fiscal time allocated to court work and a reduction in the use of courts, judiciary and legal aid;**

- **Reduction in the number of reports which require to be written by Social Work** – allowing staff more time to deliver front line services, but an increase in the number of young people being supervised on diversion programmes;
- **Reduction in police time in supporting the criminal justice process** – fewer police reports through police direct measures, less preparation of witness statements, less time spent in court. This reduction in police time allows staff more time to deliver front line services.

*This reduction in workload signifies efficiency savings across the criminal justice partners in the region of £425K.'*

### **Realignment of Funding**

Funding for adult diversion is provided to Criminal Justice Social Work via Community Justice Authorities but this is not the case for diversion programmes provided by Youth Justice Teams. Demonstrating an increase in the number of 16 and 17 year olds diverted may provide an opportunity for funding to be realigned at a local level. If services that are already linked up have shown efficiency savings this could prove to be an attractive option.



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