Referral orders - do they achieve their potential?

An inspection by HM Inspectorate of Probation

July 2016
Referral orders - do they achieve their potential?

An inspection by HM Inspectorate of Probation

July 2016
Foreword

A referral order is the first community sentence received by most young people who have offended. They provide an ideal opportunity to help young people cease their offending behaviour before it becomes entrenched.

They are consistently more effective than other sentences, but they are not being delivered as intended. If they were, they could be more effective still.

We recently published a thematic inspection report examining how well the established research on reducing the prospect of a young person reoffending is applied in practice. There are important parallels here; in particular the value of reparation (payback in kind to the victim or the community) and the need to focus on helping a young person to reintegrate into their community, for example by making sure the young person continues with their education. The relevant question for a referral order panel is: what may cause this young person to stop offending?

In our view, YOTs need to go back to the principles underpinning referral orders, and think again about how their policy aspirations are best achieved. Equally they should re-evaluate their relationships with the volunteers constituting the panels that meet with the young people and agree their plan of action. We saw powerful examples of how young people value their relationship with volunteers highly, but we found volunteers often too boxed-in by YOTs. It would help YOTs and volunteers if the centrally produced guidance was streamlined, so that the underpinning tenets of reparation, restorative justice and reintegration shone through, and respective roles and responsibilities were clear.

We found YOTs committed to doing a good job and each had examples of positive practice, many of which are described in this report. We hope this report is helpful to all those involved in delivering these significant orders.

The Ministry of Justice is reviewing arrangements for the delivery of youth justice services in England and Wales. We are pleased to have had the opportunity to share our findings with the review team. We hope they are of assistance.

Dame Glenys Stacey
HM Chief Inspector of Probation
July 2016
# Contents

<table>
<thead>
<tr>
<th>Section</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>Foreword</td>
<td>3</td>
</tr>
<tr>
<td>Summary of findings</td>
<td>5</td>
</tr>
<tr>
<td>Recommendations</td>
<td>8</td>
</tr>
<tr>
<td>1 - Introduction to referral orders</td>
<td>9</td>
</tr>
<tr>
<td>2 - Inspection purpose, scope and methodology</td>
<td>12</td>
</tr>
<tr>
<td>3 - Case management, effectiveness and management oversight</td>
<td>14</td>
</tr>
<tr>
<td>4 - Relationship between caseworkers and panels</td>
<td>21</td>
</tr>
<tr>
<td>5 - Youth offender panels</td>
<td>27</td>
</tr>
<tr>
<td>6 - Recruitment, training and supervision of volunteers</td>
<td>35</td>
</tr>
<tr>
<td>7 - Victim involvement in referral order work</td>
<td>39</td>
</tr>
<tr>
<td>8 - Restoration, reparation and reintegration</td>
<td>43</td>
</tr>
<tr>
<td>9 - Sentencers' confidence</td>
<td>49</td>
</tr>
<tr>
<td>Acknowledgements</td>
<td>54</td>
</tr>
<tr>
<td>Appendix 1 - Role of the inspectorate and code of practice</td>
<td>56</td>
</tr>
</tbody>
</table>
Summary of findings

Effectiveness of referral orders

The published data shows referral orders consistently more effective than other sentences, in that young people given a referral order are less likely to reoffend than those given other types of sentence. This is so, even taking into account the fact that these orders are often given to young people for a first offence, and the offences are generally less serious.

This chimes with research showing that restorative justice (for both young and adult offenders) can reduce reoffending as well as increase victim satisfaction. We found, however, that referral orders were not always being delivered well, risking their effectiveness in individual cases.

Overall we found that insufficient attention was given both locally and nationally to making sure that referral orders achieved their objectives.

A consistent approach?

We considered the extent to which there was consistency between different YOT areas; how well the work was delivered and whether national guidelines were being followed.

For those aspects of work that are relevant to all types of sentence - such as protecting the public, case planning, and taking into account diversity – YOTs generally performed well. This work was at least as good and consistent in referral order cases as for other sentence types. On occasions the quality of practice we found on referral orders was impressive.

We found that YOTs generally approached referral order work consistently, but not always as was intended when the orders were first introduced. Some of their objectives had been lost sight of.

The quality of engagement between youth offender panels and young people, to understand the harm that had been caused and agree how it would be put right, varied considerably. The elements of the contract agreed between the panel and the young person were, in effect, often pre-determined by the case manager, rather than being a response to the panel’s engagement with the young person. Contracts tended to focus on interventions linked to the immediate causes of the offending, rather than show considered, tailored efforts to understand what may help the young person avoid offending in future and be reintegrated into the community. Factors that may help support reintegration – for example improvements in education or changes in lifestyle - were not given enough priority. Not enough attention was given to developing and delivering a plan that was personalised and meaningful to the young person, clearly explaining what needed to happen to reduce their likelihood of reoffending.

These problems were not helped by the available guidance. The guidance was too detailed in parts, and somewhat dense and hard to understand. There were several sets of guidance. When read together, it was not clear for example whether or not the panel should be free to decide what might be best for the individual young person, or be restricted by a more limited range of options to choose from, as was so often the case. This contradicted the principles behind the operation of the panels. Most notably, panels felt constrained and sometimes boxed-in by the pre-determined views of YOT case managers; such that they did not feel they had enough control over decision-making, and frequently felt disempowered.

Environmental factors, such as room layout, were important to delivering good panels; however not enough attention was given to these. For the best prospects of success, the young person should be put at ease and in a position to speak freely, and engage with the panel.

Young people did not have enough opportunity to understand or influence recommendations about them before those were given to the panel, often only knowing what was to be said about them immediately before the panel meeting.
We found inconsistencies in the ways that YOTs tried to contact victims, make sure they understood the opportunities for them presented by the referral order, and the extent to which they became involved in panels.

Intensive referral order contracts are only used in certain circumstances (see chapter one) but we found that when they were used, they were used well. They diverted young people from custody when that was appropriate.

It is important that the critical period immediately after sentence is managed well, otherwise impetus can be lost. Not enough attention was given to the period until the youth offender panel met, to monitor and motivate young people. In that period of up to four weeks, there was often just one meeting between the young person and a YOT case manager. In our view, more was needed.

**Restoration, reparation and reintegration**

We considered how fully the three principles of restoration, reparation and reintegration were applied in practice.

*Restorative justice*

YOTs generally had a strong commitment to the development and use of restorative justice. There was, however, sometimes confusion about what constituted restorative justice.

Not enough victims became involved in restorative justice, or benefited from referral order work. When the voice of the victim was clearly heard in panels we found it had impact, but this did not happen often enough. Underlying this, we found inconsistencies in the extent to which victims were engaged, with those YOTs trying hardest to engage victims noticeably more successful than others. Initial contacts with victims needed to be more effective, to make sure victims understand the potential benefits for them, and so be more likely to take part.

*Reparation and reintegration*

Reparation – in effect, payback in kind to the victim or the community for the harm done by the offence - can be a powerful influence in a young person’s decision to stop offending, and it can help the victim to come to terms with their experience as well. We saw some good examples of direct reparation, and reparation supporting community reintegration, but generally, sufficient consideration and attention was not given to the opportunities provided by reparation.

We found that panels did not have enough influence over the type of reparation work to be done in individual cases. Recommendations and then decisions about reparation were sometimes made to suit the convenience of the YOT rather than what might work best in an individual case.

Incidentally, we felt that more effective use could be made of local and other media to support reintegration and influence public opinion on young people who have offended. This is a technique more commonly used in other countries, for example the United States of America.

**The involvement of volunteers**

We considered how well volunteer panel members are involved in the referral order process, what is their impact, and in particular the effectiveness of working relationships between volunteer panel members and YOT staff.

The majority of panel members were middle aged and middle class. This has risks (for example, that their views are not sufficiently contemporary) but where they had a good understanding of the local community most affected by offending we found their impact could be substantial.

Young people responded well to the involvement of volunteers. We saw examples of positive relationships in youth offender panels between young people and individual volunteers. Generally, we found volunteers fully committed to the work and eager to make a difference.
Working relationships between volunteers and YOT workers, however, were more variable, with some tensions apparent that related to the central issue of how the role of the panel and that of YOT staff should complement each other, and the extent to which the panel was supported and allowed to undertake the role fully.

**The views of sentencers**

We considered magistrates’ and judges’ views of referral orders, and their confidence in them. We found that sentencers had confidence in the general work of YOTs, but some were not clear about the detail of referral orders. As a result they were sometimes misunderstood and that could in turn affect their confidence in them. Sentencers were keen to receive more information about referral orders in general, and about learning or outcomes from individual cases. YOTs needed to give more attention to this.

We found a general lack of understanding about the discretionary circumstances in which additional referral orders may be appropriate, for use both by YOTs and sentencers. Further guidance would assist.

**Areas for improvement**

We considered which aspects of practice were the highest priorities requiring improvement. We are making a recommendation to improve the national guidance for the operation of referral orders, including making clear the respective roles and responsibilities of panels and those who support them. We think clarifying these expectations would be helpful, and could lead to more effective panels, operating more in tune with the original expectations for referral orders. We suggest that the mandatory training requirements for panel members are reviewed as well. They were in some ways over-specified, and did not reflect how panels needed to work in practice. This was compounded as the supervision and support given to volunteers was often not good enough.

More generally, greater attention needs to be given to making sure that referral order work is of good quality and consistent with their objectives. For referral orders to work well, the individual young person needs to be engaged constructively and to have a say. This includes understanding and being able to comment on what is being said about them before it is too late; having enough say in the content of contracts and making sure these are clear and meaningful to them. The contracts need to help point them towards a pro-social future in which they are reintegrated into their communities. The environment in which panels are held should be conducive to the effective involvement of both victims and young people. The way that the period between sentence and the panel meeting was used needed to recognise its importance in making sure that the sentence gets off to a positive start. Important information about what happened at the panel needed to be available to others working on the case for whom it may be useful.

Finally, in order for the referral orders to remain effective as an alternative to custody when relevant, more attention needs to be given to making sure that sentencers maintain confidence in their operation.

Our specific recommendations are laid out on the next page of this report.

**Best practice**

We tried to identify examples of best practice for others to learn from. We found many instances of good practice in individual YOTs and cases, and we provide examples throughout this report.

NB: throughout this report all names referred to in practice examples have been amended to protect the individual’s identity.
Recommendations

The Ministry of Justice/Youth Justice Board should:

- make sure that statutory guidance reflects the findings from this inspection and that statutory guidance, national standards and case management guidance are consistent with each other
- undertake national monitoring and oversight of the delivery of referral orders to make sure they achieve their objectives
- make sure that training requirements for volunteers and staff support how the work is delivered and the achievement of best practice accreditation.

Youth Offending Teams should make sure that:

- work on referral orders is of good quality and achieves their objectives
- case managers and youth offending panels work together well, with their complementary roles understood, respected and supported
- they provide effective oversight of referral order work, including of volunteers and youth offender panels
- all known victims have a timely, fully-informed and effective opportunity to receive an appropriate restorative intervention, including having their voice represented in the youth offender panel
- sentencers understand and have full confidence in referral orders and the work of youth offender panels
- there is good engagement with young people and their parents/carers in the period between sentence and youth offender panel; including an opportunity for them to see, understand and influence reports to panels before they are completed
- referral order contracts are of good quality; are developed in conjunction with the young person and are understandable to them
- objectives in referral order contracts focus on outcomes that point to a prosocial future and give attention to reintegration into the community
- what happened in a panel meeting is disseminated to all others who may need to know
- the locations in which panels are held and the way rooms are organised maximise the likelihood of effective involvement by both victims and young people.
Introduction to referral orders
1. Introduction to referral orders

This chapter sets out the objectives of referral orders, puts them in the context of other sentencing options and describes how they are expected to operate.

1.1. The referral order has become the most frequently used court disposal that requires young people to work with a YOT to address their offending. In the year to March 2015, 12,039 referral orders were given to young people in England and Wales, 10,653 youth rehabilitation orders, 2,387 custodial sentences and 229 other sentences such as reparation orders. There were 12,837 disposals that did not involve work with a YOT. Referral orders accounted for almost 48% of new court disposals received by YOTs.

1.2. The referral order was introduced in England and Wales in 2002, having been created in the Powers of the Criminal Courts (Sentencing) Act 2000. It is a unique sentence for young people who have pleaded guilty to one or more offences, and who are under the age of 18 years old at the time of sentence.

1.3. Where the young person pleads guilty to one or more offences and has not previously been convicted of an offence, the referral order is the mandatory sentence in most cases, subject to certain limitations. These include when the offence is so serious that the court proposes to impose a custodial sentence or so minor that it proposes to discharge the case. Following changes in the Criminal Justice and Courts Act 2015, a second or subsequent referral order is also available as a disposal to the sentencing court where the young person pleads guilty to subsequent offending.

1.4. The primary aim of the referral order can be summarised as: to prevent young people reoffending and provide a restorative justice approach to achieve this, that involves victims, within a community context. The local community is involved by means of volunteer youth offender panel members. Their role is to hold the young person to account for their actions (but without holding a retrial), then negotiate a contract with them. The contract is an agreement about what will be done to reduce the offending behaviour. It must include activities intended to make reparation to the community for the harm that has been caused, including to the victim wherever appropriate. Panels should operate according to three key principles of restorative justice - responsibility, reparation and reintegration.

1.5. In all cases the sentencing court determines the length of the order (compliance period) according to the seriousness of the offence. It is then the responsibility of the panel to determine the level and nature of work necessary to prevent the young person from offending. To support them in undertaking this role the panel receives a report from the YOT which should identify the key factors that apply in the case and the recommended scale of intervention. The compliance period starts when the contract is agreed, which should normally be within 20 working days of the sentence.

1.6. In cases that are close to the threshold for imposition of a custodial sentence, but where a referral order may be an appropriate disposal, in order to provide a credible sentencing option the YOT may propose a referral order with an intensive contract. Where the court then makes a referral order the panel must be told the factors and expectations that were presented and any comments made by sentencers. It should meet to agree the contract and commence the order with the minimum of delay.

1.7. Victims should have the opportunity to attend or have their views represented at a meeting of the panel.

1.8. The panel should hold regular progress reviews, and refer the young person back to court in the event of non-compliance with the terms of the contract or refusal to agree one.

1.9. Delivery of the referral order and management of youth offender panels is the responsibility of the local YOT.

1.10. Under the terms of the Rehabilitation of Offenders Act 1974 the conviction is spent as soon as the order is discharged or any ancillary compensation order is satisfied, if later. It may be cited in future criminal proceedings and disclosed in some passport control situations. It will also be included in an enhanced Disclosure and Barring Service check or if the offence is specified as one that is never filtered out of checks.

1.11. Where a young person subject to a referral order is required, by the nature of their offending, to register under the Sexual Offences Act 2003 that registration will continue as required under that Act after the referral order is considered spent.

1.12. The operation of referral orders is governed by statutory guidance (last revised in 2015) and National Standards for Youth Justice Services (last revised in 2013). It is also subject to case management guidance published from time to time by the Youth Justice Board (YJB). We consider that the statutory guidance is in places too detailed and does not focus clearly enough on the underlying principles. Neither is it easy for individual users to identify and understand the expectations on them.

1.13. In summary, the things that make referral orders different from other community sentences are:

- the involvement of the community, in particular through the work of the panels and as beneficiaries of reparation
- the role of the panel in agreeing and monitoring the contract and responding to non-compliance
- the place of the contract in determining what activities will be undertaken during the order
- the right of the victim to be involved and have their voice heard
- restorative justice, repairing harm and reparation being central to the work
- attention being given to reintegration into the community
- specific statutory guidance that applies to their operation.

1.14. We conducted literature searches and tried to identify any independent evaluation of the effectiveness of referral orders. We found some statistics (now discontinued) that were published regularly, showing the impact of referral orders in comparison to predicted reoffending rates. Otherwise we were surprised, bearing in mind the proportion of sentences that were referral orders, that we were unable to find anything of substance beyond some limited evaluation of their initial implementation in 2002.
Inspection purpose, scope and methodology
2. Inspection purpose, scope and methodology

This chapter explains the purpose and scope of the inspection and how it was undertaken.

2.1. In preparation for the inspection evidence held by HMI Probation was examined along with the published statutory, national standards and case management guidance. From these we distilled a small number of key principles on which we based our inspection criteria. We consulted on these with a range of interested bodies. The criteria and supporting quality indicators are available on the HMI Probation website, adjacent to this report.

2.2. HMI Probation holds a substantial body of evidence about the quality of assessment, planning and delivery of referral order work, from its rolling inspection of youth offending work. We used that information for this inspection rather than revisit those aspects in detail; although we did satisfy ourselves that the work we saw was broadly in line with those findings. Instead we focused on the things that make referral orders different to other community sentences. We considered whether these were delivered in a way that made sure their potential could be realised.

2.3. We visited six YOTs, chosen to give a balance of geography and demographics. We examined a total of 54 cases selected by us from those that had recently been subject to an initial, review or final panel – aiming to speak to as many people involved in those cases as possible, including young people, parents/carers and victims. We observed the work of all youth offender panels that had already been arranged for the week of our visit. We met representatives of the relevant staff roles within the YOT, including volunteer panel members. We met or spoke to beneficiaries of reparation work undertaken by young people on referral orders and to representatives of the local youth court bench. We examined documentary information provided by the YOT.

2.4. At the end of their fieldwork each YOT (including the pilot YOT) was provided with detailed verbal feedback.

2.5. We conducted two victim surveys. The first was of those victims of referral order offences, currently working with the selected YOTs, who we had been unable to meet. The second was of victims whose cases had received a referral order very recently; every YOT was asked to send a survey to their most recent victims, as we wished to understand why victims did or did not respond positively to the opportunity to get involved.

2.6. Finally we met representatives of the Magistrates Association, Ministry of Justice (MoJ) Youth Justice Policy Unit, Restorative Justice Council, Victim Support, YJB and YJB Cymru.
Case management, effectiveness and management oversight
3. Case management, effectiveness and management oversight

This chapter examines the quality of case management practice and how effective referral orders are in reducing reoffending and diverting young people from custody. It also looks at the profile of referral orders within management teams, plans and strategic leadership.

Reducing reoffending, protecting the public and safeguarding and reducing the vulnerability of young people who have offended.

3.1. Published reoffending rates following referral orders have consistently been better than those following youth rehabilitation orders (YROs) or custodial sentences. In the 2013/2014 cohort of cases, the latest data available at the time of writing, the reoffending rate within 12 months was 39.4%, compared to 64.5% for those subject to YRO². Referral orders include a proportion of first time entrants to the justice system or less complex cases, therefore, a better result could reasonably have been expected in any event.

3.2. Examination of data that was intended to demonstrate how much difference the various sentence types make, once the different profile of offenders is taken into account, shows referral orders in a positive light. According to the latest published data³ those who received a referral order in the year to March 2012 reoffended within 12 months, 1.8% less than was predicted by their profile. This had been a consistent pattern for a number of years and had continued in more recent data provided by the YJB. In all cases this was a better outcome, relative to the predicted rate, than for both YROs and custodial sentences.

3.3. HMI Probation commissions an annual survey of the views of young people under the supervision of YOTs about the work undertaken with them. During the year to March 2015, 5,312 young people completed the survey of which 2,460 were on a referral order. Of this 88% of young people on referral orders said they were less likely to offend following work with a YOT. This was slightly better than for YROs and considerably better than custodial sentences. In all cases young people on referral orders were substantially more positive about the work that had been done at the YOT.

3.4. Our Short Quality Screening inspection programme focuses on the period immediately following the start of the sentence. In inspections up to December 2015, which included 535 referral cases and 2,406 other community cases, inspectors found that initial outcomes in referral order cases were consistently better than, or similar to, those from other community sentences, as can be seen in the following table:

<table>
<thead>
<tr>
<th>Findings from Short Quality Screening inspections, focusing on the early months of the sentence</th>
<th>Referral orders</th>
<th>Other community sentences</th>
</tr>
</thead>
<tbody>
<tr>
<td>The child or young person fully complied with the requirements of the sentence.</td>
<td>59%</td>
<td>41%</td>
</tr>
<tr>
<td>Since the start of the sentence has this child or young person been charged with an offence?</td>
<td>17%</td>
<td>32%</td>
</tr>
<tr>
<td>Since the start of the sentence has this child or young person been convicted of an offence?</td>
<td>13%</td>
<td>20%</td>
</tr>
<tr>
<td>Overall is this child or young person less likely to offend than when the sentence started?</td>
<td>46%</td>
<td>34%</td>
</tr>
</tbody>
</table>

3.5. We urge caution, however, in interpretation of the positive data in the preceding paragraphs. We are unable to say whether the differences are explained by the nature of the order, the cohort of young people, a combination of both or by other factors.

Referral orders - do they achieve their potential?

3.6. Recent research indicates that use of restorative justice can increase victim satisfaction and have an impact on reducing offending. The evidence implies that greater involvement of victims, which is discussed elsewhere in this report, and use of restorative justice could make referral orders more effective in reducing offending.

Core case management practice

3.7. Core case management practice (i.e. those common functions, including assessment and planning, that should be undertaken on all sentences under YOT supervision) in referral order cases across our current inspection programme was as good as the average for all sentences. Within Short Quality Screening inspections approximately 80% of referral order work to reduce reoffending and almost 90% of work to make sure the sentence was served as required, was satisfactory or better. Approximately three-quarters of work to protect the public and to safeguard the child or young person and reduce their vulnerability was satisfactory or better. In all cases this was between three and six percentage points better than work on other community sentences during the same period of the sentence. While the focus during the fieldwork in this inspection was on the unique elements of referral orders, the results below were mirrored in the cases we inspected.

<table>
<thead>
<tr>
<th>Findings from Short Quality Screening inspections, focusing on the early months of the sentence</th>
<th>Referral Orders</th>
<th>Community Sentences</th>
<th>All sentences</th>
</tr>
</thead>
<tbody>
<tr>
<td>There was sufficient assessment of why this young person offended and what may help reduce that</td>
<td>82%</td>
<td>77%</td>
<td>78%</td>
</tr>
<tr>
<td>Sufficient efforts were made to identify and understand diversity factors and barriers to engagement</td>
<td>83%</td>
<td>83%</td>
<td>83%</td>
</tr>
<tr>
<td>There was sufficient assessment of the risk of harm to others posed by this young person</td>
<td>77%</td>
<td>71%</td>
<td>73%</td>
</tr>
<tr>
<td>There was sufficient assessment of the vulnerability and safeguarding needs in this case</td>
<td>77%</td>
<td>73%</td>
<td>75%</td>
</tr>
<tr>
<td>There was sufficient planning for work to reduce offending</td>
<td>82%</td>
<td>73%</td>
<td>76%</td>
</tr>
</tbody>
</table>

3.8. The cases that we inspected included both boys and girls, and came from a diverse range of ethnic backgrounds. Overall, we were pleased to find that enough account was taken of diversity factors throughout the work in about three-quarters of the cases.

3.9. We assessed whether attention had been given to promoting avoidance of offending in both planning and delivery. We were disappointed that this was good enough in less than half the cases we inspected, since a critical element of reducing future offending is to identify what may support avoidance and work towards achieving that. For example, not enough attention was given in contracts, where needed, to maintaining or improving education, training or employment; to developing positive activities and to making use of the young person's interests or aspirations in developing the contract. This resonates with findings in subsequent chapters where much of the planning work can be characterised as looking backwards at the problem, rather than forwards to the solution.

http://www.campbellcollaboration.org/lib/project/63/
3.10. Evidence from the YJB Reoffending Project has highlighted that a substantial proportion of young people who reoffend do so in the first month after sentence. While this is not just an issue with referral orders, strict adherence to the referral order process increases the time before substantive work is likely to commence compared to other sentences. This is due to the length of time before the initial panel is due. It is, therefore, important to engage young people quickly before they begin to relapse. Analysis by Stoke YOT identified that a substantial proportion of reoffending occurred within referral orders and specifically in the early period, leading to the development of plans to address that.

3.11. In many cases there was only one face-to-face contact (for one assessment visit) between the YOT and the young person in the 20 working days between the date of sentence and the initial panel. Such a low level of contact is unacceptable. The decisions of the panel must not be pre-empted. That does not justify lack of attention to motivate the young person, make sure the assessment is comprehensive, make sure the young person understands the referral order report and actively monitor their behaviour. Panel members often commented on the frequency with which young people did not turn up to their initial panel, which may indicate that not enough motivational work was undertaken. In none of the YOTs was there a clear expectation on case managers about how this period should be used; although in individual cases workers sometimes did make better use of it.

Example of poor practice: a case where more attention needed to be given to factors that may support avoidance of offending

Sean had been diagnosed with Oppositional Defiant Disorder. He was unlikely to engage positively with work that challenged his behaviour. The panel recognised that in the way they engaged with him, but did not recognise the implications for ongoing work. The panel and Sean identified that the things most likely to keep him out of trouble were education and the impact of his offending on his grandparents who he cared for deeply. The contract took no account of these and instead only addressed the original offending related factors. It was, therefore, of little surprise that limited progress was made in his work with the YOT.

Example of notable practice: link identified between referral orders and reoffending

Stoke’s approach to involvement in the YJB led reoffending project and use of their Reoffending Toolkit was to undertake a deep dive review of every case where the young person reoffended. They identified that a high proportion of reoffending happened on referral orders and specifically during their early weeks. As a result they created a referral order improvement plan. It included increased engagement with young people during the period immediately after sentence, monthly review panels (without additional reports) for the first three months focused on motivation and making sure that the order settled down, and asking young people to complete a questionnaire to provide their views on panels. Their approach meant that Stoke YOT gained important insights into reoffending, leading to plans intended to address the problems they found. It was too soon to be able to tell whether these plans were effective.

Example of notable practice: Sutton Assessment Clinic

Sutton held an assessment clinic on the same day as their youth court. Young people and their parents/carers were instructed to attend the YOT immediately after their court appearance. This was convenient for most parents/carers as they had already booked the day off work. School checks were undertaken the day before, based on the court lists. Workers from partner agencies would be available for the clinic, which included a parenting assessment. This meant that the assessment and preparation process was not delayed.
Diverting young people from custody

3.12. In most cases where the young person has pleaded guilty and has been sentenced for the first time the only sentencing options are a referral order or, if the case has reached the custodial threshold, an immediate custodial sentence. We sought to identify examples of young people being given a custodial sentence when a suitable referral order was available. We were pleased that we were unable to find any recent cases in the YOTs we visited.

3.13. For more serious cases where both a custodial sentence and a referral order are under consideration, there is an option to impose a referral order with an intensive requirement. In many respects this is similar to the Intensive Supervision and Surveillance (ISS) requirement used in some other sentences, whereby an intensive programme of work is provided as a robust alternative to custody.

3.14. We were pleased to find appropriate use being made of the intensive option in each YOT we visited. This was effective in maintaining a small number of young people successfully and safely in the community, when it had been shown that their risk to others could be managed in that way. In Liverpool we were particularly impressed with the use of referral orders with intensive contracts. We saw examples where they had proven to be particularly effective. Similar high quality work to protect the public and reduce offending was observed on referral orders with intensive contracts in other YOTs; although we sometimes considered that these aspects of the work meant that the added opportunities a referral order can provide did not receive enough attention.

3.15. In order to make full use of the intensive option sentencers must have confidence that the sentence will be managed safely and well. It was clear to us that, in the areas we inspected, they had a high degree of general confidence in the work of the YOTs. Research from the Magistrates’ Association, however, (see chapter nine) indicated that sentencers would benefit from increased confidence in the referral order as an alternative to custody.

3.16. There is a substantial difference in impact between a referral order (even if the maximum length of 12 months) and a custodial sentence, which are the only alternatives in cases around the custody threshold. There is also evidence that sexual offending cases may require a longer period to complete the rehabilitation work. We found some limited desire to bridge that gap (for example a 24 month option limited to a few more serious cases) but wider support for that possibility if it further increased diversion from custody.

Management and leadership

3.17. Without exception, managers that we met had an impressive vision for and commitment to the use of restorative justice. Good progress had been made in making sure that this permeated the culture of the organisations, particularly in Wakefield and Wiltshire. There was often frustration at a lack of opportunities to make full use of restorative opportunities, due to victims not becoming involved. Sometimes the intention to increase victim take-up was not matched by an understanding of how to make that happen.

3.18. When asked to explain what made referral orders different and how they would capitalise on their objectives, managers’ response was sometimes limited to the fact that they are intended to be restorative and that the process involves a panel. They did not always show understanding of their wider objectives. There was clear commitment to improving core case practice, but many managers had great difficulty in explaining how they planned to translate that commitment into improving referral order work and the broader outcomes that could be achieved from that. Some managers had little knowledge of the requirements of the statutory guidance.

3.19. We examined the latest business plans from a range of other YOTs selected at random, and struggled to find specific reference to improving referral order work, beyond generic references to improving the involvement of victims, and increasing access to restorative justice. Similarly the YJB and YJB Cymru had given little recent attention to referral orders.
3.20. These findings surprised us, particularly bearing in mind the high proportion of YOT workload that referral orders represent, and their importance in making sure that young people’s offending careers cease at the earliest possible point.

Example of notable practice: Wiltshire review of referral order work

When they realised that they were to be part of this inspection Wiltshire undertook an internal review of their referral order work, based on the inspection criteria that we had published. The review highlighted many of the improvement areas that our inspection fieldwork then found. This was the first time they had tried to shine a detailed light on referral orders and showed the value of choosing to review a specific area of work against external criteria.

3.21. Panels are critical to referral orders; managers, therefore, need to give sufficient attention to monitoring their effectiveness and using this information to inform their development. Quality assurance and oversight of panels was variable. It was not good enough in any of the YOTS inspected. Few managers had observed a panel and understood how they worked, so were sometimes shocked at our findings. In one YOT the lack of engagement with managers led volunteers to feel they were not important, although we also found positive examples of volunteers treated as full and valued members of the YOT team. For example Stoke YOT invited its panel members to its YOT awards ceremony.
Case review that illustrates many of the strengths of a well run case with an intensive contract that achieved positive outcomes, but also how the principles underlying referral orders and importance of well integrated work get overlooked:

Jo was convicted of a sexual offence. A pre-court panel created a draft contract that explained to the sentencers how he could be safely managed in the community.

The contract

Despite isolation being a key factor the contract made no reference to it. The ISS worker did include it in his planning, which bore little relation to the contract. No one considered returning the case to panel for a review to address the omission. He did a lot of valuable work to get Jo involved in community and social activities, but again this was not in the contract so the panel, which was responsible for agreeing the objectives, had no role in deciding or monitoring this.

Quality of records

The victim’s family had moved away and wanted to put the incident behind them. The case manager knew this, but nothing was recorded to explain this to anyone else who may need to know. Neither were there substantive records about Jo’s contribution at panel meetings. These were critical to the outcomes, but this important information was not available to others.

Work undertaken

Effort was put into rebuilding family relationships, which was successful. The need for this was not reflected in the report to panel, contract or planning documents - so there had been no discussion at the panel about the importance of achieving it.

Jo had been excluded from school. The YOT successfully advocated for his reintegration, which was critical to avoidance of offending but there was no reference to education in the contract.

Reparation was undertaken one-to-one for appropriate safety reasons. The reparation worker delivered counselling and motivation work away from a formal environment, and passed the learning from this back to the case manager. This approach was particularly valuable.

Substantial work was undertaken to address the sexual offending and help Jo understand and manage the longer-term impact of the offending on himself.

Positive outcomes

Jo established an appropriate peer group, was no longer isolated and had developed good family relationships. His likelihood of offending was assessed as having reduced substantially.

When asked what made the biggest difference he said: "I told the panel I had done wrong and was very sorry. I said it publicly, not just . . . in private – that was difficult. It was good to reflect with them. I don’t think I could have got so far without them doing that."

Conclusion

The public protection and reoffending outcomes were positive. Good case management helped this, as did reparation and the discussions with the panel. The panel was marginalised from decision-making, the contract inadequate and information not disseminated well enough. The panel was important to achieving positive outcomes, but only Jo recognised their value.
Relationship between caseworkers and panels
4. Relationship between caseworkers and panels

The most significant difference between referral orders and other sentences is the involvement of the youth offender panel, which means that control of the case is not owned by the case manager in the same way that it is in other sentences. Getting the relationship between case manager and panel right is critical to their effective operation.

This chapter examines that relationship and presents a theoretical example of how they can complement each other and become more effective.

4.1. A recurrent and key theme in the inspection was the relationship between the work of case managers and that of youth offender panels, and the tensions that sometimes existed between them. Difficulties with the relationship form the most significant improvement area in this inspection. While there were examples where it was positive, there were many others where this was not the case. At worst we found substantial disempowerment of panels and sometimes even outright hostility towards them by case managers. Even where the objectives of the relationship were understood this did not always result in good quality contracts that addressed the wishes of the victim, factors that may support avoidance of offending and reintegration. The quality of contracts is explored in detail in chapter five.

4.2. In our judgement an important, but partial, explanation for the difficulties was the primary accountability that case managers had in other sentences to make sure that plans and interventions matched the offending related factors present in the case. This was not balanced by recognition of the principles of desistance theory nor that responsibility in referral orders, particularly for work to reduce offending, lies with the youth offender panel.

Case managers

4.3. Many case managers did not have a clear understanding of the key principles underlying referral orders and how these differed from other sentences, nor of the statutory guidance. We asked them to describe what the differences meant in practice. While some understood this, others limited their response to the role of the panel and involvement of volunteers - but as matters of fact and processes to be followed, without appreciating the implications.

4.4. We were encouraged that many case managers did recognise the potential value of the engagement between the panel and the young person, and that the involvement of volunteers representing the community meant this could be more powerful than an assessment and planning dialogue with the case manager, but also relaxed informal and caring. They acknowledged that sometimes panels were able to gain insights that they had not. When asked about the contract all said that the panel set the contract but many did not recognise or accept the implications of that for the way they worked.

4.5. We discussed how case managers would respond if they thought what had been agreed in the contract differed from their assessment of the key concerns in the cases, or if these changed. A few said they would go back to the panel seeking amendment, but it was disappointing to find that most did not see the need to do so and considered that they had the freedom to change things as they felt appropriate, irrespective of what was in the contract. Some made it clear that they simply did what they had assessed was needed from the beginning in any event and paid no more than lip service to the contract agreed with the panel. On a few occasions case managers were unable to locate a copy of the contract, did not know what was on it and were unconcerned about that. We felt that illustrated the inappropriate attitude of some to the role of the panel and the contract.

4.6. In most cases the case manager then agreed a separate intervention plan with the young person, sometimes making use of other internal forums to inform the planning. Often these plans included offending related or positive factors that were not in the contract. This was likely to confuse the role...
of the panel in the eyes of young people. While it is essential that there is a clear recorded delivery plan for interventions the way that this was done demonstrated misunderstanding of the role of the panel and the agreed contract.

4.7. On occasions we considered that case managers’ attitude to the panel and the contract was one of professional arrogance and disrespect. A few case managers expressed a view that is best summarised as: ‘We are the professionals, they are volunteers, and we know what is needed’. We saw examples of case managers in effect taking over the panel, trying to exert excessive control and push the panel into the contract they wanted. In other cases we saw case managers leaving panel members in no doubt, during a pre-meeting, what they expected to see in the contract. We recognise that panels need to understand the case manager’s thinking, and we saw examples of appropriate discussion to help achieve that, but sometimes the level of attempted control was inappropriate. The more input the case manager provided, either beforehand or at the panel, the more it closed down opportunities for open discussion between the panel and the young person.

4.8. As the inspection progressed and the findings in this section became clear, we increasingly extended our discussions with case managers to explore how the roles could be reconciled. We developed a theoretical example, described later in this chapter, that we used to illustrate how this could be achieved. We felt very encouraged that, once they realised the point of what we were saying, most received this positively, leading to many useful discussions about how it could be implemented.

_Please note the quote: One case manager, following a long discussion about how roles should complement each other, said:_

“Whether we were at the panel meeting or not, we are party to that contract and as such have a responsibility to make sure it is adhered to, just like any other contract.”

Panel members

4.9. Panel members clearly understood the importance of their role and were committed to improving the lives of young people. Most recognised the influence they could have over the contract and often insisted that they had scope to change the nature of it. We were then offered few examples of this happening in a substantial sense – although we did see some positive examples in a few of the panels we observed. We more often found evidence of nervousness to make sure all the recommended offending related factors/interventions had been recognised in the final contract, rather than confidence to take an independent view that was informed, rather than determined, by the report to the panel.

4.10. Many panel members were frustrated that they felt they could not make a more substantial contribution, when they in effect rubber stamped what had been proposed to them. We found little evidence of YOTs being challenged about this. A much smaller proportion were content with the situation and saw nothing wrong with taking the proposals in the report and inserting them into the contract more or less as written with limited further discussion with the young person. In the latter case they often saw their role as primarily holding the young person to account and making sure they understand the harm that had been caused, without recognising the importance of their role in working out what should be done to make sure it did not happen again.

4.11. Many panel members went through a similar process with us, working out how panels and case managers should work together, as case managers did. We again found this most encouraging, although a small number were resistant. Overall, we found that panel members, once encouraged to reflect on what they were trying to achieve, were keen to see their role develop as we discussed.
**Impact on the operation of panels**

4.12. The quality of youth offender panels will be discussed in the next chapter. Suffice it to say here that the impact of the problems described in this chapter was that panels often did not have a positive engagement with the young person, and did not do justice to a key part of their role. We were pleased that was not always the case - we also observed panels that tried hard to make sure the young person understood what was expected of them, made some attempt to take account of their views and had a clear understanding of their role. Even in these cases the effort rarely led to contracts of the quality we expected.

**Quote: one case manager described a key element of the problem quite succinctly by saying:**

“the contract is essentially a reflection of my interpretation of the young person, as opposed to an agreement between the young person and the community”.

**Guidance and reports to panels**

4.13. Most reports to panels included clear recommendations on what needed to be reflected directly in the contract. This contravened the requirement (paragraph 7.2) in the statutory guidance that ‘the report generally should not make specific recommendations’, instead requiring that ‘panel members should have updated information on the range of reparation and intervention opportunities which are currently available and can be included in the contract’. Confusion is added by the YJB Case Management Guidance for reports (section 5 paragraph 2.20) including the words ‘suggesting potential content for the contract’, contradicting the statutory guidance. National Standards for Youth Justice Services (paragraph 5.2) repeat the second clause in the statutory guidance, without reference to the first. It is, therefore, no surprise that YOTs, case managers and panel members were confused about the approach they should take.

4.14. We do not hold a view on the detail with which proposed interventions should be recommended and included in the report. The point is minor in comparison to the principles about how panels and case managers should complement each other; the different sets of guidance, however, do need to be consistent with each other. The statutory guidance, when considering the creation of contracts (paragraphs 8.31 and 8.32), is too focused on the potential range and delivery of interventions, and their link to risk factors identified in the assessment. It does not reflect desistance theories\(^5\) and the strengths based approach underpinning the AssetPlus assessment and planning system being implemented into YOTs.

**Theoretical example illustrating the complementary roles of caseworkers and panels**

4.15. Over the course of the inspection we developed an example based on an early case that we reviewed, that we used to illustrate how case managers and panels can complement each others work. This was very well received. We have refined it and include it here to help YOTs move this work forward and in so doing increase the likelihood that youth offender panels and referral orders achieve their desired objectives.

\(^5\) See also Desistance and young people, an inspection by HM Inspectorate of Probation: published May 2016
Case example: Jason offended in the family home by causing damage and assaulting his single, working mother. This was part of a long-term increasing pattern, but his first conviction. Jason was bored and lazy, which frustrated his mother, and had little to do in his spare time. He had a positive relationship with his adult elder sister who lived nearby. He did well when at school, a contrast to his behaviour at home. He received a six month referral order. His case manager, Crystal, wrote a seven page report that concentrated on the interventions she wanted to deliver.

What would be in a typical contract? It would often include five or more items, irrespective of the order length, including:

- work to help the young person understand and improve their relationships with others
- work on anger management
- work on emotional regulation and tools to address that
- work to understand the consequences of their offending for themselves and others
- victim empathy work, often including a letter of apology
- work to develop the young person’s motivation to change.

Often these items will be proposed in the report to the panel, probably in terms of the specific interventions or offending factors rather than the outcome sought, and carried forward into the contract identically, or at least very similarly to how they were proposed. Jason would have had little influence over this, even if he had a good understanding of his own behaviour.

In addition there may be a standard objective on the lines of working with the YOT to reduce offending, plus an agreed number of hours of unspecified indirect reparation.

What is wrong with this approach? Panel members may feel disempowered because they have been ‘told’ what to put in the contract and have little say over it. Crystal does not recognise the importance of the panel because, having undertaken the assessment, she considers herself to be the person who should decide what work is to be done. There is little engagement between the young person and panel members on how to put the situation right, because it all seems tied up in advance.

Little will have been done in the panel to help the young person envisage and hence try to achieve a positive outcome. The contract is overloaded by dealing with the problems, so there is no space to consider other positive factors that may help the young person succeed in their development and contribute to achieving a non-offending life; indeed there may be little that the young person believes they can succeed at. There is more in the contract than can be delivered in the duration of the order. The contract and approach is inconsistent with what is understood about how to support avoidance of offending and the importance of changing the young person’s internal narrative; it looks backwards at the problems rather than forwards to solutions.

What are the key objectives and what may help achieve them? The key objectives in this case may be for Jason and his mother to develop a positive relationship with each other, to reduce his boredom and make sure he is in a more positive mood when at home. These are quite different to the presenting issues included in a typical contract. Jason’s relationship with his sister is a positive example from which he could learn. His behaviour in school provides some encouragement to support the view that he can be motivated and take part in positive activities.
So what could the contract look like and how is it developed? The panel members, in full knowledge of what the concerns are in the case and what Crystal thinks are the main issues, have a discussion with Jason about what his life could look like in the future, how he can get there and what things in his life might help to reinforce any progress that is made. His mum may say, when asked, that she wants them to get on better and for Jason to contribute more around the house. They may agree that use of direct reparation will help Jason get started.

Following the discussion they may agree that the first two items on the contract are:

* My mum and I will improve our relationship with each other.
* I will help my mum by doing the washing, cleaning or other household chores for at least three hours each week.

To support that and present a positive example of what success can look like, the panel encourage him to agree to a third objective:

* I will try to keep up my good relationship with my sister and learn from it to improve how I get on with my mum.

There is then space on the contract to consider other positive factors that may help to develop Jason’s self esteem and reintegrate him into the local community, such as:

* I will try to carry on doing well at school.
* I will try and find enjoyable things to do in my spare time.

And then the final part of the contract, perhaps even being standard wording, could be:

* I will work positively with Crystal my YOT worker, and others, to help me achieve these goals.

So what is so different and how does it help the roles complement each other? With the same number of objectives the contract is now clearer and more meaningful to Jason and gives him a forward looking picture of what success in his life can look like. It has space for positive objectives that reinforce the initial objectives, and supports avoidance of offending.

The panel members have engaged with Jason to consider how to put things right, how to get there and what being a positive integrated member of society may look like in his case. They have then passed the question of ‘how’ to get Jason to that point back to Crystal, the case manager. She will use her skills, interventions and resources (including for example anger management sessions if she thinks they are required) to work with Jason to achieve the agreed objectives and help him progress along his journey of change. She has the flexibility to respond to changing circumstances, as long as she continues to focus her attention on those objectives.

The review panel, rather than revisiting what work has been done, which Crystal will have done when she writes the review report, can instead consider how far Jason has achieved the forward looking objectives and discuss progress along his journey with him. Crystal and the panel have distinct roles. They complement rather than duplicate or conflict with each other.
Youth offender panels
5. Youth offender panels

This chapter examines how well panels operated and the factors that influenced that.

How we inspected this

We observed 15 youth offender panels. We inspected records of panel meetings, spoke to young people and parents/carers from many of these, and asked them about their experience of panels.

We met a focus group of volunteers and the member(s) of staff responsible for coordination of panels in each of the areas we visited. We also examined other documentary evidence.

5.1. Panel members tried hard to deliver good quality panels, as they understood they should be; their quality, however, varied considerably, with varying degrees of skill, confidence and understanding being exhibited. The best panels were delivered by those volunteers who had the highest levels of professionalism, skills and understanding of what they were trying to achieve. There was a clear link between commitment to training, supervision and oversight of panels and volunteers, and the quality of those panels.

Quotes: when asked what difference volunteers make to the panels, one panel member said:

“Once young people know you are not part of the system, when they are being difficult, you say can say, ‘we are here as volunteers, and we are here because we care about what happens to you’, and this really helps young people.” Another said: “we are not here to judge, the court has already done that, we are here to look for a way forward”.

The first quote was very much echoed by young people who we met. One quote sums up the attitude of many of the young people: “I get panel members. They don’t have to do it. They do it just because they want to and they care for us . . .”

Information provided in advance of panels

5.2. The extent to which referral order reports were provided in advance to panel members varied. The statutory guidance (paragraph 7.3) required that the report be available at least two working days before the panel. This did not happen in most cases. Reports were often provided on arrival, typically 15 to 30 minutes before the panel. Consideration of them was often rushed. In one YOT the panel did not start to read and discuss the report until the young person had arrived and was waiting outside – this was unacceptable. Panel members should have sufficient time to read and reflect on the report in advance of the panel.

Example of notable practice: making a referral order report available

In order to overcome difficulties with confidentiality and avoid the cost of sending reports out using secure mail, some YOTs produced an anonymous version which they sent out, and then provided a personalised copy on arrival. Another YOT placed the report in a security bag before putting it in an envelope and sending it.

5.3. The quality of the reports varied considerably. Many were too long. In our view this was due to the lack of understanding described elsewhere in this report, with too much attention given to inclusion.
of all offending related factors. A good report should act as a discussion starter, providing enough information to help the panel ask pertinent questions and understand the issues, but not so long that it closes down the discussion because there is nothing to add.

5.4. There were a few cases where victims or parents/carers had requested to meet the panel without the young person, where things were said that they did not want the young person to know. Sometimes the panel needs to be told about important diversity factors or safety concerns. Otherwise this is inappropriate. It is critical to the work of the panel that it is as open and transparent with the young person as it expects the young person to be with it.

5.5. The effectiveness of discussion at panels was further compromised by few young people or parents/carers having the opportunity to read discuss and understand the report to panel before they arrived. It was said to us that there is not time in the period between court and panel to achieve this, even though 20 working days are normally available. We do not accept that argument, which we consider to be a symptom of inefficient processes that ignore the importance of developing early good quality engagement with young people. Young people have a right to understand what has been written about them and why, and have the opportunity to challenge and discuss that before it is finalised. While that may not change the report, work may well get off to a better start if young people know in advance why things have been written rather than see them for the first time at the panel.

**Engagement with young people and parents/carers**

**Quotes: a panel member said to us:**

“you get more out of people with a smile . . . we want to help them stop offending . . . we don’t want to create barriers to that . . . some of them have never had a smile or a handshake before they met us . . . they really value it.” Another said: “we always stand up when they come in and show them respect . . . it is important to show them basic courtesy and respect if we want them to show it to us.”

5.6. The quality of the interaction between panel members, young people and others is critical to an effective panel. Some panels tried hard to get the young person to express their views on what had happened, and why it had happened, to expand on and explain the report, and make sure they were positively engaged. Others were too willing to give up at the first sign of reluctance or shyness on the part of the young person, and just accepted the report as read without further discussion rather than attempt alternative strategies to start a conversation. When panels were persistent that usually paid off. But we also saw some poor practice, examples of which are highlighted in the following insert.

**Examples of poor practice: found when observing panels**

- panel member wagged her finger at the young person, thinking that would make them more likely to listen and understand
- young people and parents/carers not given the basic courtesy of introducing themselves
- a case where it was clear there may have been communication difficulties but no attempt was made to discuss with those present how to work together to overcome them
- a parent/carer who required an interpreter but the panel continued at their normal pace without taking account of the time required for interpretation and checking understanding
- lip service being paid to make sure that the young person understood what was being said and what they were expected to agree to.
5.7. We did see positive examples of panels seeking the input of the young person into what should go into the contract and seeking to personalise it, particularly in Wakefield and Liverpool. There were too many cases, however, where this was not meaningful and young people were in effect told what would be in the contract. In many cases the panel members decided the content before the young person entered the room. In these cases it could not be influenced by discussion of the young person’s concerns or interests, nor their views on how to put things right. This was probably a consequence of the issues discussed in chapter four of this report. Most panel members knew they could develop and amend the contract as they choose. That level of expressed ownership was not, disappointingly, apparent in many of the panels we observed or cases we reviewed.

5.8. While every panel we witnessed asked the young person whether they understood and agreed with the contract before they were asked to sign it, often that was limited to a quick read through and a closed question leading to a ‘Yes/No’ answer. That is not effective engagement in setting and agreeing a contract. In some cases the inspectors themselves did not understand the objectives, which were often presented in professional jargon rather than in language meaningful to a lay person, let alone to a young person. They rarely clearly stated the outcome that was being sought.

5.9. Some YOTs tried to make sure of continuity of panel members throughout the order, as required by statutory guidance. It is important that the number of different people a young person has to repeat their story to is minimised. Where this did not happen it was sometimes because administrative convenience overtook meeting this principle. When it did happen it was valuable. We saw cases where it contributed to a positive outcome (for examples see following paragraph and the case review at the end of chapter three).

Parent/carer and young people’s views

5.10. Many young people we spoke to were positive about their involvement with the panel, and the discussions that had been held. When they were provided with the opportunity to say what they felt they valued that; although they also said that it did not always make a difference to what they were expected to agree to. Some young people explained how they had appreciated discussing the progress they made during review panels, with people they already knew and who could, therefore, recognise the efforts they had made, and how this had helped build or reinforce their self-esteem and motivate them to continue.

5.11. Some parents/carers who had attended panels also criticised how little say they and their young people had in agreeing the contracts.

Quotes: some views expressed by young people summarising the key strengths and a key weakness in the way that many panels work:

“I get panels, they do it because they are volunteers and care for us, not because they have to, that makes a big difference, the fact that someone cares when they don’t have to.”

“Panels made me feel better about myself because everything they said was positive . . . I ended up feeling good about myself because of the way they treated me.”

“I would have liked some say on what went in the contract . . . it felt like the panel had already decided what was going in it, so what was the point of saying I had a say . . . .”

Example of notable practice: Sutton monitoring young people views of panels

Sutton YOS asked young people to complete a monitoring form after attendance at a panel. Comments included issues around understanding of the contracts and orders. Work to respond to this included development of a more appropriate leaflet and a speech and language therapist was looking at how to improve the presentation of contracts.
The environment

5.12. The way that panel members dressed and presented themselves made a difference to the quality of the engagement. In the best panels we observed members adopted a smart casual, rather than formal, dress code that was enough to show respect to the young person and others, but not so formal as to create a barrier to engagement with them.

Example of notable practice: Liverpool meet and greeter

Liverpool YOT used a sessional worker to act as a meet and greeter to welcome everyone to the venue where a panel was to be held. They welcomed those attending the panel, looked after them while they were waiting for the panel to be ready and then took them into the panel room and introduced them to the members.

5.13. The organisation of the room used for the panel was important in influencing the quality of engagement. The best panels did not have a table between participants. They sat in a circle, often on comfortable low chairs. We heard examples of how a relaxed environment led to more effective discussion and increased likelihood of a positive involvement by the young person. Most were convened around a table, sometimes a large boardroom type one that would have been intimidating to the young person, with the panel members and young people sitting on opposite sides. Some panels tried hard to overcome the impact of this, but would have preferred not to have a table at all. When challenged most people accepted that a large table was not appropriate, but not enough was done to challenge its use. Greater attention needed to be given to the environment and to make sure that it supported engagement with young people.

Example of notable practice: panel arrangement for young person on autistic spectrum

A young person was on the autistic spectrum. He had severe communication difficulties which were a barrier to his engagement in the panel. The panel chair and young person sat on the floor. The other panel member sat in the background so that she could contribute to the contract but also minimise the communication difficulties during discussions. The panel was able to engage the young person and make sure he understood what was happening. He contributed to and agreed an appropriate contract.

Panel Script

5.14. Many panels followed a script, which could be at varying levels of detail. We recognised the benefit of an outline script for encouraging a consistent approach, to support less experienced members, and as a checklist to make sure everything was covered. We saw some examples, however, where over use resulted in a stilted panel; where the panel felt obliged to follow the script and repeat questions in the set order, rather than be flexible to respond to information already provided. In one example the stilted approach made it a difficult experience for both the victim, who was present, and for the young person.

Attendance at the panel

5.15. Who would attend the panel from the YOT and act as an advisor to the panel varied enormously, ranging from a coordinator through to an operational manager. Each area felt strongly about the merits of its own model. We heard the same arguments in favour of a model in some locations as were used against the same model in others. For example some said having the case manager present was supportive to the young person whereas others said the young person was more likely to open up and disclose information if the case manager who undertook the assessment was not present (and we saw examples of that).
5.16. We do not hold a view on which of the various models for supporting the panel is preferable and who else, if anyone, should attend. Whichever model is chosen the YOT must make sure the principles underlying the work of the panel are met. If the report is good enough there is no need for the case manager to be present to expand on that, other than in the most complex cases and those close to the custodial threshold. Insistence on case manager presence may sometimes be illustrative of the problems we described in chapter four. If they are to attend they must understand, and adhere, to appropriate boundaries on their involvement. There is a stronger argument for case managers attending review panels, particularly when enforcement action is being considered.

Example of notable practice: defensible decision-making at review panel

This panel was held to consider whether the case should be sent back to court following non-compliance. The case manager and the young person both attended. The young person explained the reasons for their non-compliance. The chair controlled the proceedings; probing and testing the case manager’s judgement that compliance, while not acceptable, was showing signs of improvement and a final opportunity should be allowed. The likelihood of a positive outcome was then tested with the young person. It was an example of an assertive, well-trained panel undertaking their role with confident independence. The outcome was a defensible decision to defer breach, with clear actions in place if the situation was repeated.

5.17. In many of the cases we reviewed we were unable to find good information about what had happened at the panel, what was discussed and how the young person had responded. That important information, therefore, was also not available to anyone else who might have needed to know it, including in the future, through the case record. This was also a recurrent theme in our regular youth inspections. The panel meeting is one of the most important contacts in a referral order case, yet it was typically the most poorly recorded.

Example of notable practice: record of panel meetings

In Sutton the referral order coordinator, who attended all panels, produced a comprehensive record of what was discussed, views expressed, and young person’s response. She placed this onto the case record as a contact. She also spoke to the case manager the next morning and discussed what had happened. This was an effective way to brief the case manager, and provide clear information to anyone else who may need to know about the meeting.

Voice of the victim being heard at the panel

5.18. All YOTs recognised that too few victims attended a panel. The extent to which the voice of the victim was clearly heard at the panel ranged from very rarely in some YOTs to the majority of cases in others. The frequency with which this happened was a sign of the individual YOT’s commitment to the victim’s voice being heard, in addition to the effectiveness of their victim contact systems. In one YOT we were pleased to find a willingness to briefly suspend national standards regarding the timeliness of the panel, where the victim expressed a desire to make a contribution but it could not be prepared in time. This was appropriate, and helped make sure their wishes were met. Whenever we reviewed a case where the victim had been present there was evidence that it had been a powerful positive experience for them, in particular where they were also a parent/carer, and often also for the young person.

5.19. The highest proportion of victims that we found attending a panel was in Wiltshire. They had a clear objective to get the victim involved at a time that suited them. They believed in the value to the
victim to such an extent that they put in a lot of effort to make sure that victims understood the risks and benefits involved, primarily through clear explanation. The risks were then prepared for and managed well.

5.20. Not enough consideration was generally given to keeping the door open to the victim’s voice being heard at a subsequent panel, rather than the initial one, or in a different environment or at a different time. The guidance should focus less on getting the victim to a panel and more on making sure that their voice is heard and their wishes taken account of where, when and how it is most appropriate for them.

Example of notable practice: victim chose to attend review panel, having previously rejected any engagement

The victim wanted to know about the progress of the young person, having previously not wanted any involvement. The YOT had kept up informal contact with them. Their views and concerns were presented at the review panel. This served to promote a positive and powerful message to the young person and helped motivate him to achieve his potential and move on.

5.21. The way the victim’s voice was heard varied considerably. Occasionally they attended the panel, always supported by the worker or other person they had had contact with. In some cases, for example Wiltshire and Wakefield, the person who had met the victim attended the panel and presented a statement on their behalf, if they did not wish to attend but wanted their views expressed or questions answered. Presentation in this way added to the power and impact as it included a sense of their emotion, not just their words. In some cases the victim worker also attended all review panels. This kept a focus on the victim impact. Sometimes evidence of continued victim interest helped motivate the young person.

5.22. In other examples we saw the victim statement included in the report, which had much less impact. We also saw examples where the YOT merely made use of information from the prosecution papers or a description of generic victim impact, as contact had not been made with the victim. This was not appropriate in the panel, although it could have been in intervention work, since it did not present the victim’s own voice. Conwy & Denbighshire had developed a virtual victim, that they used in panel meetings when the victim was absent, to reinforce the fact that an important participant was missing.

Example of notable practice: mother (a victim) benefited from attending a panel

In Liverpool the victim was also the young person’s mother. The panel members used their experience to help the mother express how she felt about that had happened, and make sure the young person understood the impact of their behaviour on his mother and the cost to the family unit both financially and otherwise (potential eviction from the home). This helped them commit to improving their relationship and to the young person improving his behaviour.

5.23. Both Wiltshire and Conwy & Denbighshire arranged the location and time of the initial panel meeting in consultation with the victim; this was, however, less common elsewhere and in some cases extremely rare. Administrative convenience and organisation sometimes took priority over flexibility to meet the victim’s wishes. We were always told that a panel ‘would’ be changed if the victim requested it, but that is quite different to actively making sure they have a genuine opportunity to do so.
5.24. We observed a trend to hold panel meetings back into YOT premises rather than in other community venues, although this was not the case in every YOT. This seemed to be a consequence of the closure of venues such as youth centres, combined with lack of resources available to hire rooms. YOTs should seek to form better links with other community organisations, both in order to gain access to more local facilities but also to open up further reparation opportunities and awareness of the work they undertake.

Deciding reparation

5.25. Panels decided the number of reparation hours, normally in line with statutory guidance; although in one YOT reparation in excess of the guidance was routinely included. This was done to suit how the YOT managed its reparation work, which was unacceptable.

5.26. The knowledge that panels had about available reparation projects was variable. Without up to date information panel members were unable to have a meaningful discussion with the young person about what projects would be of most value. In some cases the panel was aware of the opportunities and discussed these with the young person, but still left it to the YOT to decide what to deliver. There was too much acceptance of the administrative difficulties that enabling the panel to choose the appropriate reparation project might cause. Not enough effort was made to overcome this.

Example of notable practice: panel advised about suitable reparation opportunities

In one YOT the reparation worker met the young person in advance of the panel to understand what their risk factors, needs and interests were, then made the panel members aware of the current reparation projects that were available that may be most suitable. This enabled the panel to discuss these with the young person, help motivate them to engage positively with the reparation and make sure the contract was more personal to their situation.

5.27. There is nothing in the statutory guidance that explicitly requires panels to choose the reparation projects, although it strongly implies this. Not doing so can be a missed opportunity to link reparation to the other outcomes agreed in the contract and support their achievement. Where that happened we considered it to be good practice. It helped redefine reparation from being merely punishment, to instead become an integrated part of the solution about how the harm would be put right and offending reduced.

Example of notable practice: Wakefield reparation guide for panels

Wakefield YOT had produced a guide for its panel members that identified all the projects that ran regularly, when they were held, what they involved and which young people they were most suited for. Panels found that invaluable in their discussions with young people when considering indirect reparation opportunities and to make the contract more precise.

5.28. When discussing this issue, most case managers acknowledged that it would be possible to check which projects were available and most suitable in advance of the panel and make the panel aware, thereby enabling a more informed discussion with the young person.

Example of notable practice: Liverpool panel discussing reparation options

A young person had grown up primarily with his grandmother, who also cared for two disabled people. He had offended against her. It was not appropriate for reparation to be undertaken directly with her. So instead the panel and young person agreed that the YOT would arrange for reparation to be undertaken in another organisation that supported disabled adults.
Recruitment, training and supervision of volunteers
6. Recruitment, training and supervision of volunteers

This chapter discusses the recruitment, training and supervision of volunteers, primarily to be members of youth offender panels.

How we inspected this
We met a focus group of volunteers and the member(s) of staff responsible for coordination of panels in each of the areas we visited. We also examined other documentary evidence.

6.1. The extent to which panel members were representative of the diversity of the broader community, and understood the issues facing young people and the specific communities in which they lived varied considerably. Overall, YOTs did not do enough to make sure this was the case. The majority of panel members were middle-aged and predominantly middle-class. Some based their assumptions about behaviour on experiences that were not contemporary. Case managers often commented on a lack of diversity in the panels; although some YOTs tried hard to include a mix of experiences on individual panels.

6.2. Not enough members understood the communities most directly affected by offending well enough — but when they did the positive impact of that was substantial. An important role of individual panel members is to make use of local community resources in the setting of contracts. We saw little evidence of this happening, although when they did reference resources that were within the normal orbit of young people it was well received. We recognise there may be risks associated with being on a panel in the locality where one lives, but YOTs should recognise and manage these, rather than avoid them entirely.

6.3. While there were clear exceptions, in general we considered that newer panel members often recognised the forward looking aspects and broader principles of referral orders better, whereas others were more likely to concentrate on ‘holding to account’ and the reparative aspects of their role. Experienced panel members had valuable skills; YOTs, however, did not always do enough to keep their group of panel members refreshed, with a broad mix of experience, and truly representative of the community.

6.4. Statutory guidance is clear (paragraphs 5.23 and 5.27) about minimum standards for supervision of panel members, including an annual one-to-one appraisal. This did not always happen. It would be universally recognised as unacceptable if staff working in any capacity with young people did not...
receive regular good quality formal supervision and appraisal; we do not see that panel members should be treated any differently. Panel members have a critical role; a similar commitment, therefore, should be made to the quality of their supervision and appraisal. Sutton was a positive example of annual formal supervision and appraisal that was well received by panel members.

6.5. Some YOTs quoted resourcing difficulties as a reason for lack of attention to this, but we considered this to be an indication of the lack of priority afforded to referral orders. The statutory guidance is too restrictive in this respect – the volume of panel volunteers that some YOTs have means that the requirement for each to be ‘allocated to a supervising member of the youth offending team’ should be relaxed, to allow the possibility, for example, of an experienced senior volunteer being allowed to undertake this role.

6.6. Panel members were generally content with the training and development that they received; although the nature of this varied considerably from very occasional ad hoc events to formal three monthly events that panel members were expected to attend in order to retain their involvement. Some YOTs gave volunteers access to the range of internal training opportunities in the local authority that were available to any member of staff. Where this was provided it was very well received. In some cases volunteers had access to the training available to staff to support the YJB AssetPlus assessment and planning framework.

Example of notable practice: access to Youth Justice Interactive Learning Space

Caseworkers undertake a mandated training programme as part of the YJB AssetPlus implementation. This foundation programme is intended to make sure everyone has at least a consistent minimum understanding of key elements of practice and theory. This is accessed online through the Youth Justice Interactive Learning Space and is free to YOTs. Stoke YOT chose to include volunteer panel members in this mandated training. This was well received by panel members and should help provide them with a greater understanding of the theories about working with young people.

6.7. Statutory guidance required that all panel members receive full Restorative Justice Conference Facilitator training. We agree that, to lead a restorative justice conference, the facilitator must be fully-trained in the necessary skills – and that all YOTs require a critical mass of facilitators available to them. The minimum mandatory training standard for panel members should, however, better reflect what actually happens at panels. Adhering to the current standard was not good use of limited resources. It caused frustration among managers who felt unable to justify this particular investment. It also acted as an unnecessary barrier to YOTs achieving the Restorative Justice Council’s Restorative Service Quality Mark (for organisations that are delivering safe, good quality restorative services) which many aspired to, and which both the YJB and MoJ supported. This is because the expectation on training for panel members was based on the requirements in the guidance.

Example of notable practice: level 5 practitioners certificate

Sutton and other YOTs were sponsoring their restorative justice practitioners to undertake a level 5 restorative justice practitioner’s certificate at universities such as Greenwich. Others were supporting accreditation directly with the Restorative Justice Council.

6.8. All panel members need a good understanding of restorative justice and how to work in a restorative way, in particular when a victim is present at the panel or their input is being presented. But that is not the same as being able to lead the delivery of full restorative justice conferences, which as we have explained elsewhere are different to a panel meeting. Most panels tried hard to make sure that the young person understood the victim perspective. They made use of their
restorative justice training in the way that they approached this work. Unless panel members have
the opportunity to undertake restorative justice conferences they rapidly lose the skills they have
acquired, and would not be in a position to conduct a conference even if the opportunity arose. The
lack of opportunity to use skills in which they were trained also caused much frustration.

6.9. We recognise the importance of those undertaking one-to-one contact with victims having full
training in the various restorative processes. They are also likely to be the people preparing and
supporting victims, and cannot be expected to help victims make decisions about their involvement
if they do not have a thorough understanding themselves. We were pleased to find that those
undertaking this work were well trained.
Victim involvement in referral order work
7. Victim involvement in referral order work

In order for referral order work to be restorative for the victim\(^6\) they must first become involved in a way that is appropriate to them. This chapter examines how well victims are involved in the operation of referral orders, the means by which they are contacted and their options explained to them, and then why some do and some do not choose to get involved.

How we inspected this

During the fieldwork we asked to speak to every victim of an inspected case who was still in contact with the YOT. We managed to speak to ten victims in total. We also asked every YOT to send a questionnaire on our behalf to new victims, in advance of them having made a final decision about whether to become involved and we received 57 responses.

Involvement of victims

7.1. All YOTs recognised that not enough victims became involved with work on referral orders. Not all YOTs had comprehensive data about the effectiveness of their victim contact and engagement arrangements. Neither had they undertaken recent work to try and understand what would encourage more victims to become involved.

7.2. Achieving early direct contact with the victim (i.e. speaking to them) was critical to the likelihood of continuing involvement. Higher levels of involvement were reported in those YOTs that were persistent in trying to achieve this. Once voice contact had been made the majority agreed to take up YOT services in some form or other. By far the highest take-up was in Wiltshire and in Conwy & Denbighshire where, over the last year, just over 70% of victims provided a statement to the panel, two in person. Both Wiltshire and Conwy & Denbighshire were prepared to manage the risks, associated with attempting multiple contacts, of appearing over-persistent until they were satisfied that the victim had made a fully-informed decision. In both YOTs we found greater victim involvement combined with higher victim satisfaction.

Example of notable practice: Wiltshire - use of volunteers to undertake victim contact

In Wiltshire victim work was managed by the victim liaison officer, but most contact was undertaken by youth offender panel volunteers who were specifically trained to do this work. This provided substantially increased resource and flexibility . . . since volunteers could more easily arrange contact for whatever time of day, or day of the week, suited the victim. Volunteers then provided support to the victim throughout the process, accompanied them to the panel if the victim wished to attend, and spoke directly on their behalf if they did not, but still wanted to have their voice heard. As a result Wiltshire was able to provide a cost effective, flexible and well-received service to victims. It also made more effective use of the restorative justice training that the volunteers had received.

7.3. Most YOTs did not have enough resource dedicated to victim work to provide the level of support and flexibility that they would like; indeed one had an inappropriate rationing system where they chose not to contact victims of certain crimes and in certain locations. On other occasions workers

---

\(^6\) There is debate among practitioners about whether the term ‘victim’ is appropriate when addressing individual victims or whether a term like ‘person who has been harmed’ is more appropriate. Advice we have received is that the term ‘harmed’ can also be alienating for some people, and there are circumstances where it is unclear who is a victim and who is a perpetrator. While it is important to acknowledge this important debate, most practitioners use the term ‘victim.’ There needs to be flexibility to use the most appropriate term depending on the particular context. Therefore, since ‘victim’ is a term whose meaning is commonly understood it has been used throughout this report.
would go well out of their way to work with victims. A good example occurred in our pilot site, where the victims lived a few hours away from the YOT - they really appreciated the commitment and benefited greatly from their involvement.

7.4. We expect the case manager to know what contact has been made and how the victim responded, since this is directly relevant to consideration of whether restorative justice might be appropriate, but in many cases they did not know and were unable to find this out from the records normally available to them.

**Victim contact arrangements and their effectiveness**

7.5. Each YOT had an effective system to obtain victim details. In Wakefield the victim worker was employed by the police and had access to their systems to obtain victim information, which was particularly effective. Some YOTs then tried to make telephone contact whereas others sent out a letter with details of a suggested time to meet or make contact.

7.6. Those who have researched this area consider that the quality of the initial contact is critical to the likelihood of involvement, and hence the opportunity to benefit. The focus of that should, therefore, be on opening the door, so that restorative justice can then be considered at whatever point the victim is ready.

7.7. In most cases the initial letters and documentation sent to victims did not make it obvious that they were intended primarily for the benefit of the victim. Indeed, there was often so much attention given to explaining the process and linking to the original event that it would be quite reasonable for a victim to read it and think that they were being asked to become involved in the interests of the offender. Letters were often too long and dense, such that it would require a lot of reading to recognise the benefit to the victim. In any event, being told is not the same as understanding. While it is important that the victim understands the opportunity to be heard at an initial panel, they do not need to immediately understand all the processes around referral orders.

7.8. In general, when contacting someone to seek a voluntary involvement the first objective is to capture their attention that it might be something of value to them. There should be enough information to make sure they understand what it is about, but not so much that they lose interest. The details can come later once their interest has been excited. There was alignment between where we found good, personalised initial letters with clear supplementary information and where we identified better involvement from victims.

**Example of notable practice: Wakefield – simple flyer highlighting potential benefits**

Wakefield YOT, rather than providing a detailed explanation of the referral order process, sent victims an attractive glossy A5 flyer headed in large letters ‘Restorative Justice’. The front page was simple, including one subheading ‘A voice for victims’ and two points highlighting things victims may be interested in, concluding with the words ‘Restorative Justice could help’; then a second subheading ‘Restorative Justice is’, with four points identifying why victims may wish to get involved. Information about ‘What happens next?’ was on the reverse.

This opened the door for discussion, but left the detail until after the victim had considered whether there might be something beneficial to them.
Victims’ views

7.9. Victims that we met, who had become involved with the YOT, spoke positively about the benefits to themselves and recommended that others do likewise. They valued the contact they received and how, once personal contact was achieved, the YOT explained things clearly and supported them well. Those who replied to the survey responded similarly.

7.10. Less than half those who responded to the survey said they were likely to become involved, which meant they would not have the opportunity to benefit. Reasons why some chose to get involved, and others not to, are listed in the following insert. YOTs are encouraged to reflect on how they can mitigate the concerns expressed by some victims.

**Why do victims choose to get involved or not get involved?**

**Quotes from victims who chose to get involved:**

“*I wanted the young person to understand why I made the complaint.*”

“*To ask a couple of questions and to put a face to the name.*”

“*I would like the offender to apologise*."

“*To see improvements in his behaviour*."

“I am a crime reduction manager with responsibilities covering a range of local businesses . . . it is in the interests of my members for me to be involved."

“...no one can tell us about poverty and deprivation, we knew nothing else, but our parents didn’t steal and neither did we. He needed to understand that."

**Reasons why victims have decided not to get involved**, drawn from comments made in the inspection and from the input of stakeholders who have undertaken work in this area:

- initial information made it appear that involvement was in the interests of the YOT or young person rather than the victim
- broad perception that YOTs represent the young person’s interests
- victim was pushed too quickly to make a decision to suit the process, rather than encouraged to leave the door open for a later decision in their own time, as the case developed or if they changed their mind
- victim fears repercussions if they talk about what has happened to them
- adult victims may be embarrassed at being the victim of a young person
- victims receive similar correspondence from many different agencies, causing confusion, and it is not immediately obvious who it is from
- victims may be very busy, or not available at times that suit the contact worker, and not realise that there are options that can take account of this
- victims may not realise the level of benefit that they may receive
- a lot of time has passed since the original offence and the victim has moved on
- dissatisfaction with the criminal justice system or the sentence passed.
Restoration, reparation and reintegration
8. Restoration, reparation and reintegration

This chapter discusses findings about three key principles of restorative justice that apply to referral orders - restoration, reparation and reintegration; and the attention given to these.

How we inspected this

We met restorative justice practitioners and reparation workers. We visited some reparation projects and met beneficiaries of reparation carried out by young people. We met national stakeholders involved in restorative justice and examined documentary evidence.

Restorative Justice

8.1. We were pleased to find that every YOT expressed commitment to restorative justice and was developing or had achieved a focus on it throughout their work. The opportunity to deliver it, however, was severely restricted by the small proportion of victims who had engaged with the YOT. Most panel members had never been involved in a restorative justice conference and few had been on a panel where a victim was present. While one of our criteria, therefore, was that referral orders were restorative; often we could only say that the YOT had made good efforts to adopt a restorative approach, but their opportunity to achieve a restorative outcome had been precluded by lack of victim involvement.

8.2. We found confusion about what constitutes restorative justice. The MoJ and Restorative Justice Council define it as bringing those harmed and those responsible for the harm into communication, enabling everyone affected by an incident to play a part in repairing the harm and finding a positive way forward. This requires direct or indirect communication between the victim and the person who committed the offence. It should meet both of their wishes, not just one or the other. The most appropriate approach for an individual victim, once they know the options and potential benefits, is the one they want. In addition to a face-to-face meeting this may, for example, include direct or indirect reparation that satisfies the victim’s specific request, answers to questions (such as to put their mind at rest that they were not targeted) or receipt of an apology. They may simply want the young person to understand the impact the offence had, without actually meeting them again. Each approach may also lead to the door being opened to a restorative conference in due course. We would like to see greater recognition that each can be equally valid and of value, and hence restorative – if that meets the wishes of the individual victim, they participate in the delivery or selection, and receive information about the outcomes.

8.3. Most of those we met acknowledged that the gold standard of restorative justice is when the victim and young person meet in a restorative conference. There was very little evidence of these having been used. A restorative conference is primarily intended to meet the needs of the victim and should not involve other routine matters. It should be voluntary by both parties. The youth offender panel, therefore, is not normally the right place to facilitate a restorative conference, since the panel has to deal with other work, and attendance by the young person is mandatory. These important principles were confused in the statutory guidance.

8.4. Too much focus on attendance by the victim at an early panel may reduce the opportunity for a later restorative conference. As noted in the previous chapter this aspect of the statutory guidance has been overtaken by the developing understanding of restorative justice. At the initial panel the main aim should be to hear the voice of the victim as they wish, whether they are present or not. We do recognise that with enough effort victims can sometimes be ready to participate in time for an initial panel even in difficult cases.
Referral orders - do they achieve their potential?

8.5. We found a common belief that writing a letter of apology is automatically a good thing to do and is restorative. That is incorrect. There can be great value in working with a young person to write down why they committed the offence, how they feel about it and how they would like to put things right. Many case managers undertook this as part of their intervention work. If the victim has requested this and young person reaches the point where they are able to complete this honestly and with remorse, then it is particularly valuable. Including this in a contract when the victim has not requested it, can give a misleading impression to the young person and could cause damage if they write a letter which they think has been rejected because it has not gone to the victim. The frequency with which we saw this being included in contracts gave us cause for concern about the level of understanding about the purpose of these letters. As one contributor to the inspection wrote: “the standard inclusion of letters of apology in panel agreements is rendered meaningless . . . unless the victim is available and has requested it”.

Example of notable practice: managing victim expectations at initial panel

The victim was a male in his early twenties who had been the victim of common assault by two defendants. The defendants pleaded not guilty to parts of the indictment but guilty to others.

The victim expressed a desire to meet both young people at their panels but one was reluctant to do so and struggled to understand why the victim would wish to meet him. He wanted an apology but it seemed unlikely that he would get this from either young person. The victim worker and case manager met the victim to make sure that he was aware he may not receive the apology. This was positive and effective management of the victim’s expectations.

Following a short period of intense planning, the victim attended the panel. He expressed how he felt in front of the panel and the young person and observed the reaction to that. The young person refused to apologise, but the experience was still valuable for the victim because he had the opportunity to be heard. He attended the panel for the other young person on the same day. In this case he had a positive impact on the young person, who volunteered an emotional apology once he had heard the victim (having previously said he would never apologise).

The victim said he was very satisfied and the experience was productive and rewarding. The limited outcomes had met his expectations, thanks to them being well-managed in advance.

The critical things contributing to his satisfaction were that the YOT supported his involvement in spite of the risks, made sure they understood his priorities for being involved but managed and prepared him well. The close working between victim worker and case manager and the engagement between case manager and victim also helped manage the risks and expectations.

Reparation and community reintegration

8.6. There was confusion as to whether reparation is restorative. Specialists in this field consider that it can be – where there is a request by the victim to receive direct or specific indirect reparation and they are aware of its completion. Where it is just an instruction to carry out a project then it is not restorative for the victim; albeit that if used well it may support community reintegration, such as leading to employment or volunteering.

8.7. The main purpose of reparation is to make recompense for the harm that has been caused. It should, therefore, where possible give back to those that have been harmed the most, including local communities. It should also contribute to reintegrating the young person into their community, for example through a developing sense of pride, contributing to skills development, or by helping develop interests or opportunities for lifestyle changes. Not enough attention was given to these objectives in the selection of reparation projects. We considered that reparation had benefitted
the community most directly affected by the offending in less than one-third of cases and that not
enough emphasis was given to the wider opportunities that reparation could provide. Sometimes too
much priority was given to administrative convenience in its organisation.

8.8. The final principle attached to referral order work is reintegration into the community. Workers
in all the YOTs we visited tried to support this, sometimes through meaningful reparation work,
but this was sporadic and inconsistent rather than as a result of clear expectation. There was
too much reliance on groundwork or litter picking projects that were straightforward to maintain
and administer, but not creative and meant that wider opportunities were missed. This resonates
with findings from our inspection of desistance and young people, published May 2016. Desistors
spoke highly of their placements, whereas non-desistors had poor experiences. More generally
reintegration, for example through education or positive activities, was often not reflected in the
agreed contract.

8.9. We saw a number of positive examples of young people working alongside and understanding the
commitment of other volunteers, for example in food banks. Examples were provided of young
people undertaking reparation in environments where there were other volunteering opportunities,
then carrying on volunteering after the reparation finished.

8.10. A good example of a positive approach to use of reparation was in Conwy & Denbighshire. Here
the reparation officer engaged in social networking within the community and monitored local media
for events he might be able to contribute to. Having found opportunities that may help develop
young people's skills he approached sources of funding for tools and materials – many of which then
became available for future projects.

Example of notable practice: direct reparation to the community that was harmed

Lee received a referral order for an offence committed at school – he had found a peeling knife in a draw
and waived it around aggressively at another young person in a fit of anger.

The school head acted on behalf of the school as victim by attending the panel. He explained that, in
addition to the named victim, the school community had also been a victim because it happened during
the school day and many people were aware of it. Hearing what the school thought about the offence
made a big difference to the young person, who started to take responsibility for his own behaviour and
engage with the work of the YOT.

The head teacher identified a specific piece of reparation – redecorating a school common room, which
was done in the school holidays. It took twice as long as the number of reparation hours that had been
agreed. When asked about this the young person said: "It wasn't about the hours, it was about finishing
the job properly, 'cos I realised what it meant to them."

8.11. We were concerned that almost half the victims we spoke to said they had not been asked for their
views on what reparation should be undertaken, and less than half were offered the opportunity
to request direct reparation, even though this is central to the guidance. Some YOTs were not
resourced to be able to respond to requests for direct reparation and this seemed to influence
whether victims were asked. We sometimes had a general sense that offering direct reparation
created too many problems for the YOT. Yet we also saw some very positive examples of direct
reparation being used.

Example of notable practice: direct reparation – impact on the victim

A victim had two bicycles stolen at different times. The YOT acquired two unclaimed bicycles from the police.
Working with a renovation project the young person made the bikes 'like new'. A safety check was carried out
by a local store and the bikes given to the victim. The victim was delighted, as he could not have afforded to
replace them himself. The young person recognised, through the work to prepare the bikes, the impact the
thefts had on the victim.
8.12. Many reparation workers recognised the opportunity to use their work to support case managers. In one example a worker asked a young person to visualise the changes he was seeking to achieve that day when working on improving a patch of ground. At the end he was able to see how far he had gone towards achieving that change. The worker helped him link that to the other work he was doing with the YOT and helped motivate him.

**Example of notable practice: Wakefield District Housing (WDH)**

Wakefield YOT had a positive relationship with the main local social housing provider. When WDH needed work done they contacted the YOT who would support it if they could. WDH staff worked with the young people to help develop their skills while working, and acted as prosocial models. The local communities directly affected by antisocial behaviour benefitted from the work that was done. Young people were helped to develop pride in the communities where they lived. One used the work as a reference that helped him get an apprenticeship.

8.13. We examined the extent to which local communities became aware of the contribution that young people undertaking reparation made to them, including improving the public perception of young people so that they are more willing to support reintegration of young people who have offended. Some YOTs had not considered this. The standout exception was Conwy & Denbighshire. The reparation worker communicated directly with the local press and would take photos and send in articles publicising the work undertaken by young people. These did not refer to the fact that young people had offended, merely stating that work was undertaken in conjunction with the youth justice service.

8.14. We saw some impressive reparation projects, where the young people’s contribution had brought positive outcomes for the communities concerned, some of which had substantial public profiles. It was disappointing to see that the YOT had not always taken the opportunity to publicly associate itself with that and so celebrate to the wider community the positive contribution being made by young people who had offended.

**Example of notable practice: Stoke business, residents and YOT coming together on a reparation project**

The ground near a fast-food restaurant was overgrown. Upkeep of this area was a planning condition for the restaurant. The residents association got the owner to agree to turf and fence the land, if the council cleared it. The association was aware of the benefits that reparation could achieve due to work the YOT had done previously and the profile that had. Young people worked hard to clear the land over a number of sessions. The restaurant recognised this and provided them with a drink and something to eat during their break. This was well-received by the young people as they were not used to people doing something voluntarily for them. The community was made aware of the young people’s contribution through the community notice board, explanation at a public meeting, and through pictures and details being posted on the residents’ association website (over 66,000 hits at time of inspection). This was a positive example of business, community and the YOT coming together through reparation to benefit the community and present a positive picture of the contribution made by young people.

8.15. Two YOTs had made links with awarding organisations so that formal accreditation could be given to young people for what they had achieved while undertaking reparation. This approach required projects to be more creative and focused on skills development. This was valuable in helping young people with limited formal education or qualifications develop curriculum vitae and motivation to re-engage in work or training.
Example of notable practice: Conwy & Denbighshire Video Project – community awareness of the positive contribution made by young people who had offended.

This was a partnership between a local train operator, a voluntary rail partnership and the youth justice service, with funding provided by the High Sheriff’s charity. It arose thanks to the positive work the YOT had done previously on reparation projects for the partnership.

A film was made that could be used in primary and senior schools to help improve safety on the railways and reduce the impact of antisocial behaviour. A local film maker worked with young people known to the YOT to plan, script and produce it. The young people also had the main acting roles. They had cleaned up and planted flower beds and made other improvements as part of their reparation – this was shown in the film. One said this gave him a sense of pride and helped develop his self-esteem. It also provided exposure to skills that he was interested in taking further. The titles for the film made it clear that it was developed in conjunction with the youth justice service, but none of those who acted were identified as having offended.

The local partnership commented: “hours of our time . . . is destroyed by mindless vandalism…..the young people have done excellent work…..repairing damage and restoring the dented will of those adopters whose work had often been affected. Such was their contribution that we decided to record and portray on film this excellent example of partnership working and its powerful message. [It will help to] spread the message and continue this valuable work.”

One of the young people who took part in the filming said: “Reparation has helped me learn many different things. I feel like I have benefitted 110% from everything I have been taught and experienced throughout my time with the Youth Justice Service and I hope that the community has seen that I am sorry for what happened.”

At a public event to launch the film, in front of media and local dignitaries, the rail company said: “it was a privilege to work with those young people”, the producer said: “this helped turn negativity and fear into creativity and productivity”, and one of the young people, having undertaken reparation said: “I’ve never felt good about myself before.”

This received much positive media coverage, including acknowledgement of the positive role played by young people from the youth justice service.
Sentencers’ confidence
9. Sentencers’ confidence

Sentencer confidence is critical to referral orders achieving their objectives, particularly as an appropriate alternative to custody. In eligible cases where the custodial threshold is met the alternatives are a referral order or a custodial sentence. In some other cases sentencers have a choice between a referral order and a YRO. Lack of confidence would risk less use of referral orders in suitable cases. Equally, if youth offender panel members understand the work of the youth courts, it should help them make sure their work complements that well.

This chapter examines whether sentencers understood and had confidence in referral orders and youth offender panels, and whether enough was done to maintain and develop confidence.

How we inspected this

In each area we spoke to one or more representatives of the local youth bench and to YOT managers. We examined documentary evidence. We also asked youth offender panel members about their understanding of the work of the courts.

We met representatives of the Magistrates Association Youth Courts Committee. The association had surveyed its youth court members for their views, using the inspection criteria. Responses were received from members in 78% of the association’s branches across England and Wales.

9.1. Every sentencer we met expressed confidence in the work that YOTs undertake. Often this was based on a broader confidence in the YOT rather than specific understanding of referral orders. There was common acceptance that not enough was being done to develop or maintain their understanding of referral orders. Comments in the survey illustrated that sentencers did not always understand what referral orders were trying to achieve and how YOTs went about making that happen well enough. Some magistrates perceived them as a soft option even though, with the exception of electronically monitored curfews, a referral order can contain largely the same controls and interventions as a YRO. That further indicates that these orders are not understood well enough. One magistrate expressed the view: “there is a case for improved liaison between courts and YOTs in order to create a forum where constructive debate can take place to increase understanding and to explode some of the current myths/ perceptions [about referral orders] that prevail.” We agree.

Communication between sentencers and youth offender panel members

9.2. Most sentencers recognised the importance, and saw the value of, closer working relationships and better communication between themselves and youth offender panel members. Almost two-thirds expressed the view that these arrangements needed improving. There was general agreement that increased understanding of each other’s roles and responsibilities would help develop confidence and lead to more effective work. Panel members felt similarly.

9.3. Every YOT we visited contributed to one or more regular forums for liaison with sentencers; for example court user groups, attendance at meetings of the youth court panel, open days and joint training events. It was generally recognised that these were not enough to make sure the operation and potential of referral orders was shared and understood. We found specific opportunities set up to deal with referral order business in two areas.
9.4. While both forums described above were valuable, the learning was largely restricted to those who were present. More attention needed to be given to sharing the learning and developing the confidence of those who did not attend. A bench chair told us that communication between chairs and their colleagues is increasingly undertaken electronically, if YOTs, therefore, provided regular electronic briefings these could be forwarded to all members. Another commented on the eagerness with which sentencers pick up information left in retiring rooms, suggesting that more use could be made of this.

9.5. One of the main concerns for sentencers was that they had little awareness of young people’s progress when subject to referral orders, either at the individual or the macro (data) level – except when young people reoffended, were breached or came back for early revocation. Sentencers said they would value receiving information about the outcomes that had been achieved in referral orders; including basic statistics such as numbers of commencements, panels held, successful completions, breaches and early revocations. They would also value case studies presenting learning or outcomes from individual cases. They told us that each of these helps to improve confidence, including being open about when things have not gone so well and what learning there has been from that. Sentencers were also keen to understand the extent of victim involvement in referral orders, since they recognised that this was critical to achieving their restorative objectives.

Observation of each others work

9.6. A small number of panel members had observed a youth court. They found this of great value in helping them understand the process that young people had been through before the panel. It helped them understand how their role differed to that of the court. It was sometimes unclear how well other panel members understood this, illustrated by the following comments expressed by panel members: “we need to ensure there are consequences” and: “when we are dishing out punishment”. Panel members would greatly value the opportunity to observe the work of the court and speak to sentencers. This should be part of the training for all youth offender panel members.

Example of notable practice: volunteers invited to observe youth court

In Wiltshire volunteer panel members are regularly invited to observe the youth court at work. Panel members are reminded of this opportunity in their twice yearly newsletter.
9.7. We found limited opportunity for sentencers to observe or understand the work of panels. In the magistrates survey few respondents said they had been given this opportunity. Sentencers told us they would value this and that it would be useful when discussing, in court, what receiving a referral order would actually mean. Concern was expressed about the risks associated with attending panels if they have sentenced those young people, or may be involved in trying or sentencing them in future, and also about the impact on the dynamics of a panel if a sentencer was present. We understand those concerns and recognise that they need be managed carefully. One suggestion was the idea of videoing a panel, masking the young person’s identity and using this at a sentencers’ training event.

**Example of notable practice: role play helped sentencers understand panels**

Wakefield had run a training event for sentencers where they were asked to role play being a young person, parent/carer or victim in a panel, with volunteer panel members running the panel.

**Awareness of the community involvement in referral orders**

9.8. With the exception of Conwy & Denbighshire, sentencers we spoke to did not have a good understanding of how the community benefited from referral orders through reparation. They said this would be helpful, both to increase their general confidence and to enhance their ability to explain what a referral order meant. In Conwy & Denbighshire the reparation lead in the YOT attended a youth court bench meeting twice a year to brief sentencers on their projects and the benefits these brought to the community. This was greatly valued.

**Enforcement, early revocation and feedback**

9.9. We saw good use being made of return to court to consider early revocation of the sentence, as a result of good progress. Attention had been given to this possibility in every relevant case we inspected. Its effective use can deliver an important message to young people about their progress towards a positive and pro-social life.

9.10. We were very encouraged to find that appropriate use was made of enforcement processes, and return to court for breach proceedings, where young people had not complied with the requirements of the sentence. This was done well enough in all except one of the relevant cases that we inspected. Good communication about breach processes is also important to sentencers’ confidence.

**Example of notable practice: panel influence on whether to instigate breach proceedings**

Chloe had a chaotic family background. Due to the continued chaos she struggled to settle into her order. She had compliance problems, had been returned to court and was likely to be breached again. Eventually she showed early signs of starting to engage. Following her next failure to comply the panel, after long deliberation, decided not to breach her. The justification was clearly recorded and explained.

Chloe said: “*they were the first people who had done something because they cared for me and chose to avoid punishing me even when they had the opportunity to do so . . . it made a real difference to me*”. She said the reparation worker had recently taken her aside when she was at rock bottom and explained how she needed to trust the people who wanted to help her and how she needed to take control rather than blame others: “*......and soon after, that happened, it was wonderful*.”

The opportunity taken at an ‘off guard’ moment and the actions of the panel in combination led to a substantial change in Chloe’s attitudes.
Legislation

9.11. The link between referral orders and criminal records was often not understood well, including by young people. Anecdotal evidence was presented in which young people said they had been encouraged to plead guilty to avoid a harsher sentence, on the basis that the conviction would be spent, but without understanding the full ramifications for their criminal record. This also caused difficulty for case managers when starting to work with young people who had pleaded guilty and then stated their innocence. Some concern was also expressed at the incongruity between a young person who was placed on the sex offenders’ register being told their conviction would be spent on discharge, but who was then subject to the impact of the registration for a substantial period thereafter. Consideration should be given to addressing this lack of clarity.

9.12. We were unable to find clear guidance on the factors to be taken into account when proposing an additional referral order rather than a YRO, as is now allowed. Both sentencers and YOTs recognised this and thought that more guidance regarding when a subsequent referral order may be suitable could contribute to increased confidence, since it could then be seen more clearly as an alternative option rather than a lesser one.
Acknowledgements

We would like to thank all those who took part in this inspection; without their cooperation the inspection would not have been possible.

We would like, in particular, to thank the service users, volunteers, staff and others from the areas that we visited for the inspection fieldwork – Conwy & Denbighshire, Liverpool, Stoke-on-Trent, Sutton, Wakefield, Wiltshire – and those in Camden where we undertook a pilot inspection. We would also like to thank the representatives of the following organisations who contributed to the inspection – Magistrates’ Association, Ministry of Justice, Restorative Justice Council, Victim Support, Youth Justice Board and YJB Cymru.

---

**Lead Inspector**

Ian Menary, *HMI Probation*

**Inspection Team**

Joe Coleshill, *HMI Probation*

Keith Humphreys, *HMI Probation*

Amanda Paterson, *HMI Probation*

Lyndon Lewis, *Cwm Taf Youth Justice Service*

**HMI Probation Support Services**

Stephen Hunt, *Support Services Manager*

Oliver Kenton, *Research Officer*

Lynne Osborn, *Support Services Officer*

Alex Pentecost, *Communications Manager*

Amy Williams, *Support Services Officer*

**HM Assistant Chief Inspector**

Alan MacDonald, *HMI Probation*
Appendix 1 - Role of the inspectorate and code of practice

Information on the Role of HMI Probation and Code of Practice can be found on our website:

http://www.justiceinspectorates.gov.uk/hmiprobation/about-hmi-probation/

The Inspectorate is a public body. Anyone wishing to comment on an inspection, a report or any other matter falling within its remit should write to:

HM Chief Inspector of Probation
1st Floor, Manchester Civil Justice Centre
1 Bridge Street West
Manchester, M3 3FX