

## Leicester City Youth Offending Service Case Management Guidance for Out of Court Disposals under the Legal Aid, Sentencing and Punishment of Offenders (LASPO) Act 2012

(Part 3, Chapter 7 - Sections 135 -138)

This guidance is intended to provide clear directions for staff when working with young people subject to an Out of Court Disposal (OCD).

### 1. Introduction

Following the introduction of the LASPO and in line with the Youth Justice Board's (YJB) Youth Out of Court Disposals Guidance Leicester YOS and Leicestershire YOS alongside Leicestershire Police established the OCD Panel in April 2013. The purpose is to be able to make a joint decision for an OCD. The aim is to reduce the risk of further offending and divert young people away from the criminal justice system into services to address the cause of their offending behaviour.

### 2. Out of court disposal panel overview

2.1. The OCD Panel includes a Leicester City YOS (Team Manager) and a Leicestershire YOS representative, a YOS seconded Police Officer in addition to a Police Gatekeeper. The Panel meets on a weekly basis. All cases which meet the criteria for an OCD are referred by the Police via F7 secure email to the seconded Police Officers (please see Appendix 1 for the role of the YOS seconded Police Officer in supporting with OCDs). Prior to making a disposal decision, a full screening through relevant checks are made via the Police National Computer (PNC) record; Police Sentinel in relation to anti-social behaviour and safeguarding concerns; One System in respect of Education, Training and Employment (ETE); Liquid Logic Social Care, Liquid Logic Early Help in addition to the YOS database. The Panel representative will also make further enquiries with other agencies where the young person is open or known to them. The Panel operates within the guidelines of the Association of Chief Police Officers (ACPO) Gravity Factor Matrix; YJB Case Management Guidance; Leicestershire Police Community Resolution (CR) Incorporating Restorative Justice (RJ) in addition to the YOS key principles when making disposal decisions.

2.2. The Panel considers the following criteria when making a decision:

- Young person's admission of guilt Is the offence seriousness enough to go to Court (charge) or can it be dealt with outside of Court?
- Seriousness based on the ACPO gravity factor matrix and the circumstances of the offence
- Views expressed by the victim
- Offending history, including Police intelligence
- Frequency of offending and desistance since last offence

- Likely outcome if prosecuted
- Compliance history and whether intervention was offered on a voluntary or statutory
- Likelihood of complying with interventions/services

2.3. The Panel decision is determined on a case by case basis with the young person's diversity including age, level of learning/cognition as well as welfare needs and looked after status being considered. The protection and confidence of the public is also a key focus throughout the decision making. For offences committed by a Child Looked After (CLA) within the home a decision will not be made until the Panel has received a copy of the Home's Policy and the 1-10 questionnaire in relation to how the home has dealt with the young person's behaviour.

2.4. The Panel firmly embeds the principles of a "whole family" approach via the Early Help strategy to ensure risks and needs are addressed at the earliest opportunity in order to reduce further offending and promote positive outcomes for young people. Please view [Early Help](#) for full details and referral process to Early Help.

### 3. Out of court disposal panel decisions

3.1. The Panel have a range of options available in response to an offence committed by a young person. Equal priority should be given to OOCs as per other statutory Court disposals in terms of swift contact, assessments, planning, delivery of interventions, enabling compliance and enforcement (YCC's only).

#### 3.2. No Further Action (NFA)

This could arise if there is no substantive offence or if the young person makes no admission and there is insufficient independent evidence to charge them. The Panel could recommend that NFA is taken and suggest the police officer signs posts the young person/family to another agency.

#### 3.3. Community Resolution

For offences with a lower gravity score or it is deemed a less serious offence the Panel may decide it appropriate to deal with the young person by way of a Community Resolution (CR). A 'less serious' offence is not nationally defined but determined on a case by case basis. For example, the classification of the offence may appear serious although the circumstances appear less so.

3.4. If a decision is made at the Panel that a CR should be considered then the case is normally sent back to the Officer in the Case (OIC) to seek agreement from the victim. In certain cases a CR may be appropriate without the victim's consent or in the absence of an identifiable victim (e.g. drugs or a public order offence). Where the victim's consent has not been secured the Panel will provide a rationale for this disposal decision.

3.5. A CR may be delivered with or without a Restorative Justice approach. A CR could also include a single agency referral by the YOS seconded Police Officer to Turning Point, for example, or support via the YOS Liaison and Diversion (L&D) scheme in relation to health. A CR could also involve the YOS Volunteer Co-ordinator to arrange victim empathy/offending behaviour work and/or complete an Early Help referral for Family Support or Targeted Youth Support. On such occasions, it may be determined by the Panel that it is in the best interest to allocate the case to a seconded Police Officer to co-ordinate and administer the CR. If the seconded Police Officer is leading on a CR disposal

then it is also good practice to ensure that the YOS Victim Contact Officer is consulted and involved.

- 3.6. This disposal is not directly enforceable by the Police in all but the most exceptional circumstances. However, non-compliance with a condition (i.e. referral to Turning Point for possession of cannabis or the YOS Volunteer Co-ordinator to offer short term YOS preventative intervention) will be taken into account in the event of a subsequent OOC Panel discussion.

### 3.7. **Youth Caution - standalone**

The Panel may decide on a stand-alone Youth Caution (YC) where the causes of the young person's offending behaviour is being addressed by existing services in place, such as CSC or the Multi Systemic Therapy (MST) team. These cases will normally be allocated to the seconded Police Officer to administer the YC.

### 3.8. **Youth Caution with Early Help Referral**

If a decision is made at the OOC Panel for a Youth Caution with Early Help (EH) within CSC Duty and Service (DAS) the case will be allocated to a YOS officer to further explore any unmet needs. Verbal/signed consent is required prior to an EH Referral. Please note that the EH Response Team must be contacted on 371004 (external 4541004) prior to making a referral. Please see 204 above re further guidance in relation to EH.

### 3.9. **Youth Caution with an assessment (AssetPlus)**

A determination will be made at the OOC Panel to complete a Youth Caution (YC) with an assessment and therefore a YOS Officer will be required to complete an assessment utilising the AssetPlus framework to determine an appropriate package of intervention for the young person and family. NB Where a young person has received a previous YC/Final Warning (with or without assessment) it is a mandatory requirement for the AssetPlus framework to be completed.

### 3.10. **Youth Conditional Caution**

A decision will be made for a young person to receive a Youth Conditional Caution. The YOS officer is mandated to complete a compulsory AssetPlus and deliver intervention.

### 3.11. **Charge**

Cases may be referred back to the OIC for a Charge. There are occasions when a young person has been Charged but a prosecutor decides that the case should be adjourned for an OOC to be considered. Under these circumstances the YOS officer in Court should request at least 15 working days adjournment for the OOC Panel decision. An admission of guilt is essential before a Youth Caution or Conditional Caution can be given and it will only be in exceptional circumstances that a young person who has been correctly Charged will receive such a disposal. Please see Appendix 2 for a stated case that provides further guidance in relation to cases at Court that can be considered for an OOC. The principles in this Guidance should be applied in such cases.

## **4. Assessment process and administering of youth cautions (YC)**

- 4.1. A determination will have been made at the OOC Panel meeting whether a YC with an AssetPlus or EH Referral/Assessment is appropriate. The case will be allocated to a YOS Officer for an assessment to be undertaken to determine the appropriate package of

intervention, which will be offered on a voluntary basis. Every effort should be made to engage and motivate the young person to engage with the programme of intervention.

- 4.2. All YC's will be allocated to a seconded Police Officer and instructed to administer the YC to the young person within 10 working days following the Panel decision date.
- 4.3. The YOS Officer must refer to the Police referral (F7) and YOS OOCB Screening tool (Business Support will attach to Capita Documents by mid-day the following day- has this been agreed) before face to face meeting with the young person and family/carer.
- 4.4. The YOS Officer must arrange an appointment with the young person and parent/carer guardian for the assessment to take place no later than 5 working days from the Panel decision date. In the first instance, the young person or parent/carer should be contacted by telephone. A letter should be sent to confirm the appointment. If the young person or their parent/carer cannot be contacted, a letter with an appointment should be sent, without delay. It is necessary for all young people under 18 to have an appropriate adult, usually a parent/carer, who remains present for the assessment.
- 4.5. The initial assessment meeting is to be completed at the home address, where possible. If this is not possible, please seek Team Manager's approval and outline the reasons for this within Events on Capita database. In event that this is not possible, a home visit will be required within 1 week of the YC being delivered by the Police Officer.
- 4.6. The minimum National Standard for completing the assessment is within 10 working days, with the OOCB AssetPlus stage being concluded within 15 working days following the OOCB Panel decision (as outlined in the YJB Guidance 2013). NB If open under a statutory Court Order create a "Review" stage, add OOCB offence(s) episode & complete ALL sections.
- 4.7. The role of the YOS Officer is to determine an intervention package appropriate to the assessed level of and re-offending, risk of harm and safety & wellbeing. Where unmet needs have been identified and the young person and/or parent/carer require additional support the YOS Officer must consider an EH referral for Family Support/Targeted Youth Support and seek consent for a referral to EH DAS at the earliest opportunity. In the event of 3 or more unmet needs being identified that requires a multi-agency co-ordinated approach with longer term support, an EH Assessment must be considered from outset.
- 4.8. If the young person fails to attend or cancels the first appointment, please record this explicitly on Capita Events as this will further evidence why National Standards are not met. If all efforts to engage the young person have been exhausted and at least two appointments have been missed, you must consult with your Team Manager to determine the next course of action. All actions/discussions must be recorded within Capita.
- 4.9. When you have either agreed engagement or the young person has declined the intervention, you must update the YOS Victim Contact Officer. This is critical to ensuring timely victim contact by the YOS and ensuring victim safety.

## **5. Assessment process and administering of youth conditional cautions (YCC)**

- 5.1. The case will be allocated to a YOS Officer for an AssetPlus to be completed. Please refer to 4.7 above in the event of the young person being open under a statutory Court Order.
- 5.2. All YCC's will be allocated to a seconded Police Officer for the YCC to be administered no later than 20 working days following the Panel date.
- 5.3. Again, the same principles apply in terms of motivating the young person to engage. Please refer to 4.4 – 4.6 with regards to referring to the F7 and OOCB Screening tool, the initial assessment meeting/home visit.
- 5.4. If the young person fails to attend or cancels the first appointment, please record this explicitly with Capita database to evidence why National Standards have not been met.
- 5.5. The YOS Officer must complete the AssetPlus framework and provide the seconded Police Officer with the MG14 (located in Special, YOS 2015, OOCB folder) within 15 working days following the OOCB Panel date.
- 5.6. The role of the YOS Officer is to determine an intervention package appropriate to the risk of harm, safety and wellbeing and re-offending. Please refer to 4.8 in relation to unmet needs and the EH pathway.
- 5.7. The YJB Out of Court Disposal Guidance 2013 (3.11) states: The YOS must assess the young person and advise on appropriate conditions. The young person must also agree to accept the YCC and the conditions attached. Police should not agree conditions which are to be delivered by the YOS without the YOS's prior agreement. The conditions attached to the YCC can be reparative, rehabilitative or punitive in nature. Punitive conditions should only be used where rehabilitative and reparative conditions are not suitable or sufficient to address the offending. The YOS are responsible for monitoring conditions and advising on non-compliance
- 5.8. The YOS Officer must update the YOS Victim Contact Officer when considering the Conditions to be included under the YCC or the young person has failed to engage with the YCC. This is critical to ensuring timely victim involvement, update and ensuring victim safety by the YOS.
- 5.9. The YOS officer will be responsible for bringing the MG14, the F7 and a copy of a YCC leaflet when meeting with both the young person and seconded Police Officer for administering the YCC.
- 5.10. Every effort should be made to engage with the young person. However, when all efforts have been exhausted and at least two appointments have been missed, you must consult with your Team Manager and arrange a home visit to complete a re-engagement meeting. Please refer to the YOS Enabling Compliance Policy in addition to 7.6 and 7.7 below).

## **6. Pathways and planning targets**

- 6.1. Young People subject to Youth Cautions and Youth Conditional Cautions will have access to the full range of YOS interventions and will be given equal priority to that of a statutory Court Order. Intervention is to be completed within a 3 month period. Any intervention should be proportionate and defensible, and based on risk and responsivity principles.

- 6.2. Delivery of a restorative approach alongside a YC or a YCC allows the young person to confront the consequences of the offence and give the victim a voice and a stake in resolving the harm caused. The Victim Impact Statement, where available, should be utilised for all victim awareness work in addition to consulting with the YOS Victim Contact Officer. The restorative approach can include a letter of apology, shuttle/mediation, and direct/indirect reparation (for YCC's only).
- 6.3. The YOS officer can make a referral to the YOS Mentoring scheme (for YC's only), where 3 or more sessions are required to be undertaken with the young person. Any decision to refer to a YOS Mentor must take into account the existing services already in place such as EH TYS or other EH services to avoid duplication.
- 6.4. A decision to allocate a Youth Advocate for YCC's must be made in accordance to the level of risk/needs and discussed with the YOS Team Manager. Again, this would also be dependent on other services in place, including TYS.
- 6.5. Restorative justice is a key element of YCC's and will potentially include reparation, a letter of explanation, or shuttle/direct mediation. If there is a specific request from a victim in relation to the nature of reparation the young person undertakes, this will need to be taken into account as part of the intervention package, wherever possible.
- 6.6. For stand-alone YCC's, the young person should be seen once a week for the first four weeks (as a minimum), thereafter once a fortnight (minimum) unless assessed risk factors indicate they should be seen more frequently.
- 6.7. As soon as the young person has completed the elements of the YCC the disposal becomes 'spent'

## **7. Failure to engage and comply**

### **7.1. Youth Cautions**

Youth Cautions are normally issued by the seconded Police Officer. Appointments are normally arranged by seconded Police Officer for the young person to attend. In the event, that the young person fails to attend an appointment at their home address they should be offered a further opportunity to attend at either their home address or at the YOS office. If they fail to attend on the second attempt then the case should be returned back to the OIC. There may be exceptions to this rule which will require management authorisation.

### **7.2. Youth Caution with Assessment (AssetPlus) or Early Referral/Assessment.**

In the first instance, should a young person fail to engage in the assessment for a YC, there is no sanction available. However, failure to engage with YC assessments is one of the criteria's which must be considered by the OOC Panel in the event of any further Police referrals to the Panel. This does not imply that the young person would ordinarily be escalated through the criminal justice system but rather the application of the decision making criteria set out in the YJB Guidance 2013.

- 7.3. Similarly, there is no sanction available for young people who fail to comply with the offer of intervention of a YC. However failure to comply can be cited in any future criminal proceeding

### **7.4. Youth Conditional Cautions**

If the young person does not engage in the assessment process for a YCC, the YCC will not be delivered, in the first instance.

- 7.5. The YOS Officer, their Team Manager and where possible, the allocated seconded Police Officer will meet to discuss how to progress the case. If all parties are in agreement that reasonable efforts have been made to engage with the young person (at least 2 visits, one of them at their home and follow up contact attempts/made), the case may be returned to the Police OIC for a Charge. The YOS Officer will be required to send an email to the seconded Police Officer for the case outlining the efforts made to engage the young person and recommendation for Charge. The seconded Police Officer will then send an update to the OIC and respective Sergeant with the recommendation of charging the offence. All communications will need to be recorded within Capita.
- 7.6. If a young person does not comply with the citable elements of a YCC (please see Appendix 3 for details of citable and non-citable conditions) to which the young person has originally agreed, the YOS Officer is responsible for liaising with their Team Manager to determine whether further efforts can be made to motivate the young person to engage (please refer to the YOS Enabling Compliance Policy). All failures to cooperate with the requirements of the YCC must be responded in line with the Enabling Compliance Policy and the YJB Case Management Guidance. Warning letters must be issued within minimum National Standards as well as an offer of Compliance Panel meeting at Breach Stage and copied within Capita, in line with statutory Youth Rehabilitation Orders.
- 7.7. If a decision is made to return this case back to the Police for Charge, the YOS Officer must complete a Breach Report which outlines interventions completed, efforts made to engage, the citable elements that remain outstanding and recommendation to Charge. A copy of the Breach Report is also to be saved within Capita. The YOS Officer will be required to send the Breach Report and the MG14 to the allocated seconded Police Officer. It is the responsibility of the seconded Police Officer to ensure that all forms are sent to the original Police OIC and the Sergeant for the offence to be charged.
- 7.8. The Sergeant will arrange for the OIC to arrest the young person and Charge them with the offence or summons the young person to attend Court, under section 24 of the Criminal Justice Act 2003.
- 7.9. It remains the responsibility of the seconded Police Officer to follow up actions within 5 days if the young person is not charged and raise with the respective Sergeant or their Police link if no action is taken within 10 days.

## **8. Closure of case**

- 8.1. Prior to closure the YOS Officer should revisit Early Help FS or TYS to further support the young person and parent/carer and as part of the YOS exit strategy.
- 8.2. Closure AssetPlus stage is to be completed following the end of the YC or YCC. In the event of the young person also being subject to a statutory Court Order an AssetPlus review stage is to be created to remove the O OCD offence episode and update ALL sections accordingly.
- 8.3. Additional administration tasks to be updated following Capita launch

## **Appendix 1**

### **Role of The Seconded Police in supporting Out of Court Disposals**

1. To be responsible for providing screening information for the Out of Court Disposal process via checking Niche and Sentinel.
2. To attend the Out of Court Disposal Panel on a rota basis shared with County YOS (as and when required) as a representative of Leicestershire Police to share additional information/intelligence at the panel and also update working sheet and spreadsheets.
3. To be responsible for contributing to assessments for Youth Cautions (YC) and Youth Conditional Cautions ( YCC)s when necessary and actively support the case manager with managing the risk of the young person.
4. To be responsible for swiftly administering Out of Court Disposal including Community Resolutions, Youth Cautions and Youth Conditional Caution as per National Standards.
5. To support the YOS Officer with any compliance issues in relation to YCC including attending compliance panels if required and follow up any recommendations for charge with the Police to ensure a swift administration of justice.
6. To be responsible for liaising with local Police to facilitate arrangements for citable conditions such as non-association, exclusion and door step curfews

## Appendix 2

### Cases adjourned from Court for O OCD

Magistrates Courts often adjourn Youth cases for consideration of an O OCD.

There is a stated case that gives guidance on this matter.

‘The decision in R (F) v CPS and the Chief Constable of Merseyside (2004) 168 JP 93, emphasises that if a reprimand, warning, or caution is offered at the police station but the suspect declines to make any admissions at that time, they are not entitled to rethink their position once charged and require the matter to be returned to the police station for diversion. Neither the CPS nor the police are bound to act in that way.

This means that it is inappropriate to adjourn for consideration of an O OCD where the young person did not make a clear admission of the offence at the police station. The court should proceed to sentence.

Defence advocates will sometimes urge the court to adjourn but such requests such be refused where the young person failed to make a clear admission at the police station whereby a referral to the O OCD Panel could have been considered.

**There is an exception** to where a young person declines to make an admission of guilt on the advice of his or her advocate

Therefore if the court is satisfied that the young person was not in a reasonable position, on advice, to admit the offence, because of the lack of sufficient evidence being disclosed to them, then in those circumstances the court can adjourn for an O OCD to be considered provided the circumstances of the offence are such that a O OCD would have been given and the defendant clearly admits the offence’.

In view of the above the O OCD Panel agree to accept ALL Court adjourned cases for consideration of an O OCD

#### **Except**

Any case where the suspect has made a **full denial of the offence**, unless the court is satisfied that youth has declined to make an admission of guilt because of peer pressure OR on the advice of his/her advocate/appropriate adult.

## Appendix 3

Citable Requirements (enforceable)	Considerations
Reparation	3-9 Hours, depending on victim statement, specific request (where this is possible), direct or indirect reparation. This could include for example, completing reparation at the Attendance Centre (AC), on Saturdays from 10-12pm at Lancaster Boy's School.
Attendance Centre Group-work	Please be specific about which AC group-work programme the young person to undertake. Clive is happy to accommodate as many requests from YOS as deemed suitable. The requirements can include the following: Split Second (Delivered by armed police from police HQ - deals with consequences of carrying guns and knives/gang culture), The Environment, Re-offending, Discrimination & Prejudice, Responsible Dog Ownership (Delivered in conjunction with the Dogs Trust- includes dangerous dogs/trophy dogs), Decision Making & Peer Pressure, Anger Management - Taking Responsibility, Bullying, Domestic Violence (Delivered in conjunction with an external DV specialist), Car Crime, Victims of Crime
YOS Group-work programme	Where available and where 1-1 is not appropriate/suitable to the needs of the young person
AIM2 assessment	The YOS will retain the responsibility for completing AssetPlus and AIM 2 assessments on sex offences cases who receive a YCC. However the Children and Families Support Team (CFST) (Manager:) could offer the therapeutic intervention, where suitable, following this, which would be non-citable. Therefore, where possible, a Social Worker from the CFST would support the initial assessment process to offer continuity for the young person to aid engagement.
1-1 Work	Sex Offending work (Aim Intervention), Offending Behaviour Risk Reduction Work, Victim Awareness, Anger Management, Self Esteem, Emotional Literacy/Psycho-Education work, some ETE appointments (agreed in advance; please see explanation below) Healthy Relationship's and other appropriate 1-1 work to be completed at National Standard appointments
Non- association requirements	This will be included in exceptional cases only, and with approval from a YOS Team Manager. It will require prior liaison and approval with the Local Policing Unit as they will enforce this primarily on a local basis. This condition will have clear links to the young person's continuing offending behaviour and/or engagement in ASB. The decision to enforce this element will be proportionate and defensible.
Exclusion Zone	This will be included in exceptional cases only, and with approval from a YOS Team Manager and in consultation with the YOS Victim Contact Officer. It will require prior liaison and approval with the Local Policing Unit and they will enforce this primarily on a local basis. This condition will have clear links to the young person's continuing offending behaviour and/or engagement in ASB. The decision to enforce this element will be proportionate and defensible.
Doorstep Curfew	This element will require approval from a YOS Team Manager. It will require prior liaison and approval with the Local Policing Unit and they will enforce this on a local basis. This condition will have clear links to the young person's continuing offending behaviour and/or engagement in ASB. The decision to enforce this element will be proportionate and defensible.

Non Citable Requirements (non-enforceable)	Notes
YOS Mentoring	Please refer to mentoring for 3 or more sessions, which can relate to the areas of work outlined above in relation to 1-1 work, Education support, accessing positive activities and as a means of accessing local and appropriate community resources.
Mental Health Interventions	Referral/Consultation to the allocated CAMHS CPN's at YOS.
Substance Misuse Interventions	Referral/Consultation with the SM staff at YOS
Sexual Health Interventions	1-1 work by Case Manager or the Sexual Health Nurse
Sex Offending Therapeutic	Work delivered by the Children and Family Support Team (CFST) within Social Care. The work delivered by CFST will be agreed in advance of the conditions being imposed, insofar as determining which agency, CFST or YOS, are most suited to delivering the sex offenders work. If CFST are involved and are the primary agency delivering the sex offending work, engagement in the intervention is non-enforceable.
Education Support (ETE)	1-1 support from Education Psychology, post 16 ETE support, Connexions etc. are non-citable except where this has been agreed with the ETE specialist and ideally with the young person prior to the appointment. ETE placement attendance (school etc.) is not a citable requirement.
Family support such as Early Help or Multi Systemic Therapy	This work will be delivered by the MST Therapist/ YOS Parenting worker or via support from Early Help Family Support
EH Targeted Youth Support or Twenty Twenty	This work will be completed by the TYS or Twenty Twenty mentor

Revised by Carol Hughes, YOS Team Manager – 31 May 2017