

The quality of delivery of out-of-court disposals in youth justice

HM Inspectorate of Probation

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HM Inspectorate of Probation is committed to reviewing, developing and promoting the evidence base for high-quality probation and youth offending services. Our *Research & Analysis Bulletins* are aimed at all those with an interest in the quality of these services, presenting key findings to assist with informed debate and help drive improvement where it is required. The findings are used within the Inspectorate to develop our inspection programmes, guidance and position statements.

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We would like to thank all those who participated in any way in our inspections. Without their help and cooperation, the collation of inspection data would not have been possible.

Please note that throughout the report the names in the practice examples have been changed to protect the individual's identity.

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Executive summary

Context

As the numbers of children within the formal youth justice system continues on its more than decade long decline, the profile of the cases that remain is changing, with an increasing proportion of children subject to out-of-court disposals (non-statutory community resolutions, youth cautions and youth conditional cautions).

This bulletin focuses upon the quality of delivery by Youth Offending Teams (YOTs) in relation to these out-of-court disposals, including analysis of variations in quality and identification of enablers and barriers.

Approach

The findings presented are based on 43 YOT inspections conducted between June 2018 and February 2020. We looked at the cases of 724 children who were the subject of out-of-court disposals. Where relevant, we have compared these cases to the 1,367 court disposal cases we examined.



Key findings and implications

- The lack of standardisation of decision making, assessment, planning and delivery of out-of-court disposals has led to a number of different models across England and Wales and considerable variations in the quality of delivery between YOTs.
- We found that the best performing YOTs tended to have a robust framework for managing out-of-court disposals, where staff understood their roles and that of their partners and where inter-agency communication was strong. Board membership was sufficiently diverse, with skilled and engaged board members from key agencies able to facilitate effective multi-agency working. Across those YOTs that were performing less well, shortcomings were found in relation to the levels of communication, recording, performance monitoring, and feedback.
- The effectiveness of leadership and management was not necessarily correlated with the quality of delivery of out-of-court disposals. An important responsibility for YOTs is to work with other agencies, and with parents and carers, to try to establish a safe space to support children towards positive, healthy and pro-social lives. However, a theme running through almost all the poorly performing YOTs was an insufficient focus upon the safety of the child and/or other people. This often commenced at the

assessment stage, where there was a focus upon desistance but insufficient attention given to potential safety issues.

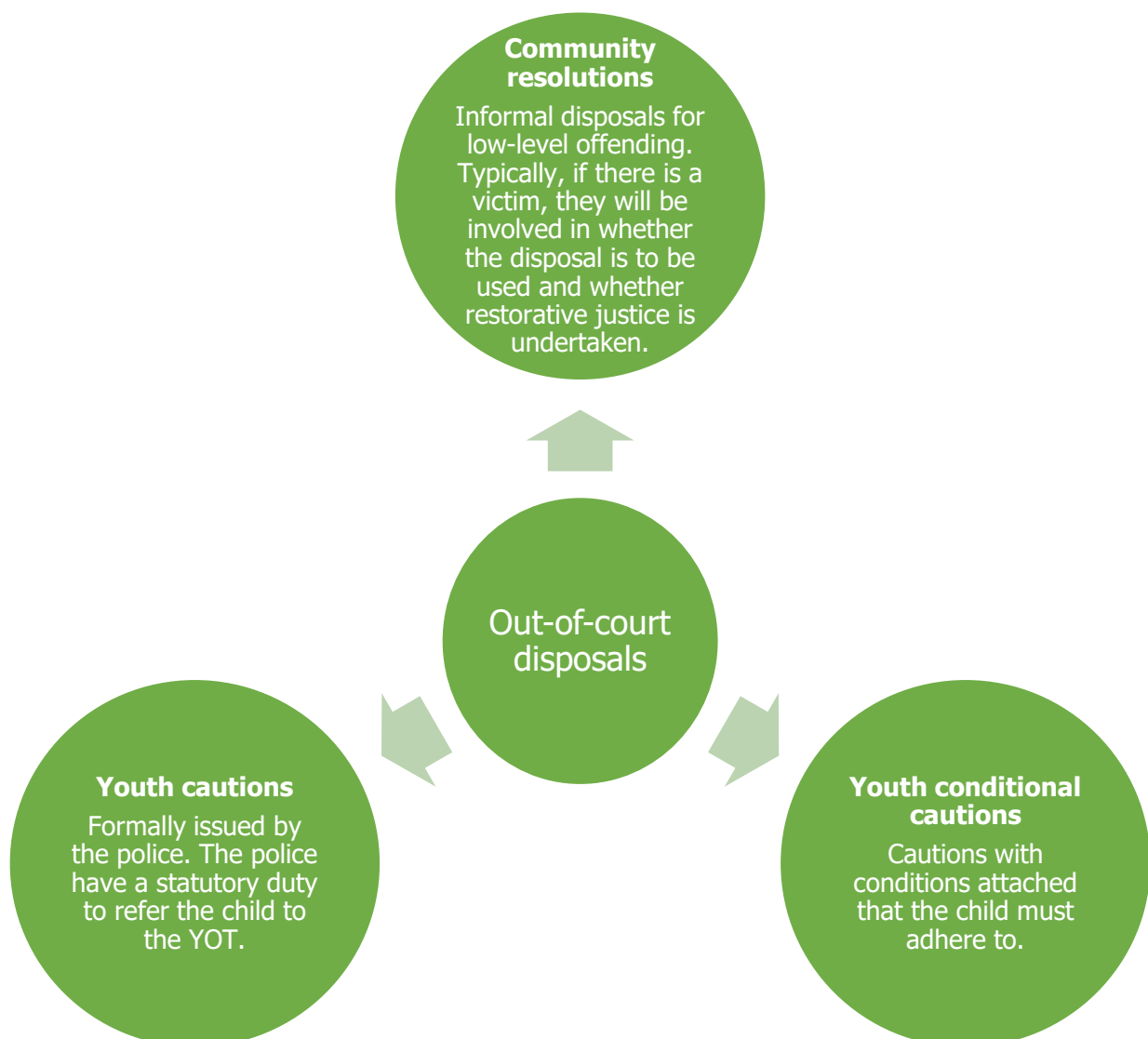
- There was a sizeable number of cases in which our inspectors concluded that insufficient recognition had been given to specific concerns and they disagreed with the 'low' safety and wellbeing and/or risk of serious harm classifications. There was thus a sub-group of children missing out on potentially beneficial support and protections; safety concerns can escalate over time, and well-focused, personalised and coordinated multi-agency activities have the potential to benefit both the children and wider society in the longer term.
- The overall quality of the case-level work in relation to out-of-court disposals was below that for court disposals. The difference was particularly marked at the assessment stage in terms of the sufficiency of the focus upon keeping the child safe and keeping other people safe. Further analysis revealed that assessment was less likely to be judged sufficient for community resolutions compared to youth conditional cautions. We found instances of assessments not being completed at all, assessments being completed by unqualified or untrained staff, and the use of tools which did not sufficiently consider all relevant circumstances and the full context, hindering a whole-child approach.
- Analysis of inspectors' commentary revealed common enablers and barriers to the effective delivery of out-of-court disposals. Key enablers included:
 - YOTs seeking to be involved early so that they could inform panel decisions, utilising a suitable assessment and making sure that the disposal was appropriate
 - using multiple techniques to connect with and engage children at the assessment and planning stages
 - utilising multiple sources of information to build a more complete picture of the factors influencing the child's offending and relevant safety concerns
 - considering the work of other agencies engaged with the child to better coordinate and compliment delivery, and identify potential post-disposal work
 - ensuring that plans are proportionate to the needs of the child and to the disposal, and build sufficiently upon the child's strengths
 - ensuring flexibility in the delivery of interventions, assisting with engagement and compliance.
- While out-of-court disposals are a chance to address less serious offending in children and help them desist before their offending becomes more serious, it is also a chance to detect and address safety concerns, both to the child and to others, before these concerns and associated risks escalate and have a detrimental impact upon life outcomes. We have found that this is an opportunity that is too often being missed.

1. Introduction

Context

The number of children in the youth justice system peaked in 2007 and has declined every year since. The fall in numbers has coincided with a shift in the relative proportions of those cases handled in court and those handled through out-of-court sanctions, with YOT work moving more towards the latter. Out-of-court disposals used to take the form of reprimands and final warnings, but these were replaced through the *Legal Aid Sentencing and Punishment of Offenders Act 2012* by community resolutions, youth cautions and youth conditional cautions.

Figure 1: Types of out-of-court disposal



The ethos behind these disposals is to intervene early and holistically address a child's offending-related behaviour before it becomes entrenched, while at the same time avoiding costly court appearances and the potentially institutionalising effects of entry into the full youth justice system (Ministry of Justice and Youth Justice Board, 2019). Differing models

and schemes have been developed at the local level, with wide variation in the policies and processes governing these schemes (HM Inspectorate of Probation, 2020). Some out-of-court disposals, particularly community resolutions, are delivered on the street by police officers, and can involve restorative justice activities to the satisfaction of the victim. However, it is becoming more common for out-of-court disposals to be referred to a joint decision-making body, usually consisting of the local YOT and a police representative, to assess and determine a suitable disposal.¹ Unfortunately, due to a lack of published data on out-of-court disposals, it is impossible to tell, for example, how many community resolutions are subject to YOT involvement.

Forms of diversion more generally are promoted by *international human rights standards* (see Goldson, 2019). For example, the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (the 'Beijing Rules'), which were adopted by the United Nations General Assembly in 1985, have a section on diversion from formal justice for young people. These rules state as follows:

- consideration shall be given, wherever appropriate, to dealing with juvenile offenders without resorting to formal trial by the competent authority
- the police, the prosecution or other agencies dealing with juvenile cases shall be empowered to dispose of such cases, at their discretion, without recourse to formal hearings, in accordance with the criteria laid down for that purpose in the respective legal system and also in accordance with the principles contained in these rules
- any diversion involving referral to appropriate community or other services shall require the consent of the juvenile, or her or his parents or guardian, provided that such decision to refer a case shall be subject to review by a competent authority, upon application
- in order to facilitate the discretionary disposition of juvenile cases, efforts shall be made to provide for community programmes, such as temporary supervision and guidance, restitution, and compensation of victims.

The United Nations Guidelines on the Prevention of Delinquency (the 'Riyadh Guidelines'), adopted by the United Nations General Assembly in 1990, specify that formal agencies of social control should only be utilised as a last resort. Similarly, the United Nations Convention on the Rights of the Child (UNCRC), which was implemented by the UK government in January 1992, provides that the arrest of a child should only be applied as a measure of last resort and that addressing transgressions should, whenever appropriate, avoid resorting to judicial proceedings. More recently, in 2010, the Council of Europe issued Guidelines of the Committee of Ministers of the Council of Europe on *child-friendly justice*. The 'Guidelines' articulate a range of further human rights-based principles that serve both to frame the concept of 'child friendly justice' and echo the general provisions of the UNCRC. It is again stated that alternatives to judicial proceedings should be encouraged.

The *Child First* model also promotes 'a childhood removed from the justice system, using pre-emptive prevention, diversion and minimal intervention' (Case and Browning, 2021).

¹ A child must admit guilt to an offence for a community resolution to be used. It does not appear on a normal criminal record check but will appear on an enhanced check for relevant offences. Youth cautions can be used when the child admits an offence and there is sufficient evidence for a realistic prospect of conviction, while at the same time not being in the public interest to prosecute. Both youth cautions and youth conditional cautions are considered spent but will appear on enhanced criminal record checks unless filtered.

Child First principles were used to guide the *Standards for Children in the Youth Justice System 2019*. Standard 1 focuses upon out-of-court disposals, highlighting the need for the disposals to be proportionate, targeted and tailored to the individual child. The standard states as follows:

Youth offending team (YOT) management boards have mechanisms in place which provide them with assurance that:

- local strategies and services are in place to ensure positive outcomes for children, including sustainable desistance from crime and to prevent children from becoming involved in crime and/or anti-social behaviour
- point-of-arrest diversion is evident as a distinct and substantially different response to formal out-of-court disposals
- there is effective multi-agency partnership working arrangements for timely information-sharing, planning, decision making and monitoring with key agencies. Actions happen within agreed timescales and the help and protection is provided to reduce risk and meet need
- out-of-court disposals are prompt, robust and deliver targeted and tailored interventions for sustainable desistance
- all action should be taken to promote diversion into more suitable child-focused systems, and the promotion of positive constructive behaviour
- police services and YOTs have a joint protocol setting out locally agreed practice for out-of-court disposals and a suitable means of joint decision-making
- quality assurance is evident and all decisions are recorded and reviewed
- analysis and action planning is in place to tackle any disproportionality
- improvement is achieved in the quality of pre-court work.

YOTs must:

- undertake a timely and accurate, suitable and sufficient assessment of risk and of need for all children referred to the YOT
- formulate all intervention plans based on that assessment with a focus on promoting a pro-social identity and aiding desistance from crime
- involve children and their parents/carers in assessment, planning and reviewing of individual programmes
- make sure that they work closely with the police (and the Crown Prosecution Service where relevant) for the out-of-court disposal system to be effective
- build supportive relationships and deliver prompt, proportionate, effective interventions.

The Youth Justice Board (2019) published accompanying case management guidance on how to use out-of-court disposals. The guidance for workers covers: screening cases; triage (or Bureau for Wales); the different types of disposal; and how to consider repeat youth cautions and youth conditional cautions. The section for YOT managers has information about: the decision-making process; specific circumstances; liaison between police and YOTs; victims; and the reviewing of decisions.

In 2018, in partnership with HM Inspectorate of Constabulary and Fire and Rescue Services, we published a thematic inspection entitled *Out-of-court disposal work in youth offending teams*. We reported that YOTs were often doing good and effective work to make it less likely that children would offend again, and to enable them to change their lives for the

better. At the same time, we identified key areas where out-of-court disposal work might be strengthened:

- Inspectors noted that victims were not always as engaged in the process as they should be. Assessment and planning by YOTs sometimes gave insufficient attention to the safety of other people. While those victims who engaged with YOT work on out-of-court disposals were positive about the process, not all took part and some YOT staff were more committed than others to seeking victim engagement.
- More attention could be given to the views of the child. We found insufficient evidence that the child or their parent/carers had been specifically asked for and expressed their views on the causes of, and potential solutions to, their offending behaviour.
- A greater focus was required upon monitoring and evaluation. There was no clear tracking of how the use of out-of-court disposals might be leading to less children entering the formal youth justice system, and no national system to track the use of community resolutions, nor how many children go on to offend again after receiving one. There was little effective monitoring locally of the quality or effectiveness of out-of-court disposals, and the use of community resolutions varied widely by YOT.

We now routinely inspect YOT practice in relation to out-of-court disposals, and much of the data in this report is based upon inspectors' judgements about the quality of practice in individual cases.²

Inspection standards

In spring 2018, we introduced changes to the way we inspect. We began to inspect YOTs against a new set of published standards.

This new set of inspection standards reflect the high-level expectations that government and the public have of YOTs. They are grounded in evidence, learning and experience and focus on the quality of delivery. In developing the standards, we worked constructively with providers and others to build a common view of high-quality youth offending services and what should be expected.

The standards framework focuses upon those key 'inputs' and 'activities' which are the drivers of positive outcomes. Getting to the heart of current delivery through inspection is where we believe we add most value – based on our independence and the expertise/experience of our inspectors, we can uniquely focus on the effectiveness of work with individual children.

The first domain within the standards framework examines organisational inputs, while domains two and three cover the quality of work in individual cases; domain two focuses on court disposals and domain three focuses on out-of-court disposals. The standards in both of these domains are based on the well-established ASPIRE model for case supervision, which recognises that for delivery to be tailored to the individual child, both assessment and planning must be undertaken well. Within these standards, there are key questions focused on supporting desistance, the safety of the child, and the safety of others.

² The full standards framework for our YOT inspections can be found here: <https://www.justiceinspectorates.gov.uk/hmiprobation/about-our-work/our-standards-and-ratings/>.

2. Findings

Most of the findings presented in this bulletin are based upon the domain three case assessment (out-of-court disposals) data from 43 youth inspections completed between June 2018 and February 2020. We inspected cases for 724 children, broken down as follows:

- 287 (40 per cent) community resolutions
- 116 (16 per cent) youth cautions
- 321 (44 per cent) youth conditional cautions.

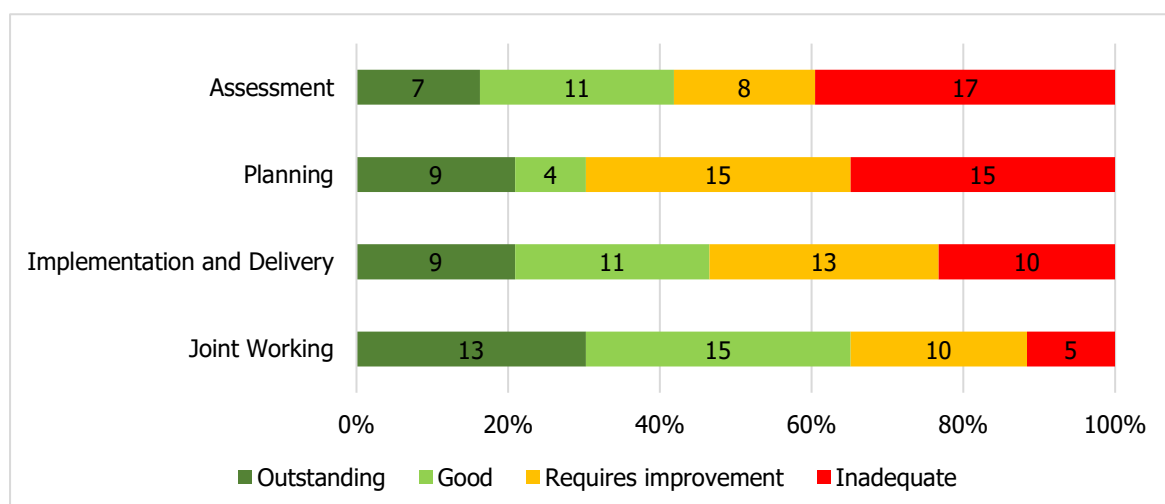
Inspector judgments are presented for the sample as a whole and, in some instances, broken down by the child's demographics (age, gender, and ethnicity), whether they are a child 'looked after', type of disposal (community resolution, youth caution, youth conditional caution), safety concerns (safety of the child and the safety of others), and number of previous sanctions. Logistic regression models were used to assess which sub-group differences were significant when accounting for the relationship between the variables.

Inspectors also recorded rationales for their judgments, alongside case summaries and notable instances of good or poor practice. This information was analysed and used to highlight enablers and barriers to supporting the effective delivery of out-of-court disposals, as well as producing the good and poor practice examples in the bulletin.³

2.1 YOT-level performance

We found considerable variation in performance between YOTs. 12 YOTs achieved a rating of 'good' or 'outstanding' across all four out-of-court inspection standards, with three YOTs achieving a complete set of 'outstanding' ratings. At the other extreme, 11 YOTs received ratings of 'requires improvement' or 'inadequate' across all four standards, with three YOTs rated entirely as 'inadequate'.

Figure 2: Ratings for out-of-court inspection standards



³ See Annex A for further information about our inspection methodology.

The best performing YOTs tended to have a robust framework for managing out-of-court disposals, where staff understood their roles and that of their partners and where inter-agency communication was strong. Agency representation at board level was sufficiently diverse, with skilled and engaged board members from key agencies able to facilitate effective multi-agency working.

YOTs that were rated highly usually ensured that there was a sufficiently thorough and holistic assessment of the child before a decision regarding the disposal had been made, allowing that decision to be based on all the relevant facts, including those held by other partners such as social services. It also allowed for the consideration of the resources needed at the earliest stages.

Specific examples of innovative/creative practice included the following:

- Oxfordshire had developed a particular disposal to cater to those children caught in possession of cannabis called the Cannabis Warning Clinic. This clinic was used to identify those involved in or vulnerable to county lines, and could also refer to the Aquarius substance misuse service
- Sheffield had taken the decision to give children up to three months to complete work on an out-of-court disposal. This is longer than we often see, giving time for the building of relationships between children and practitioners, and for interventions to progress.

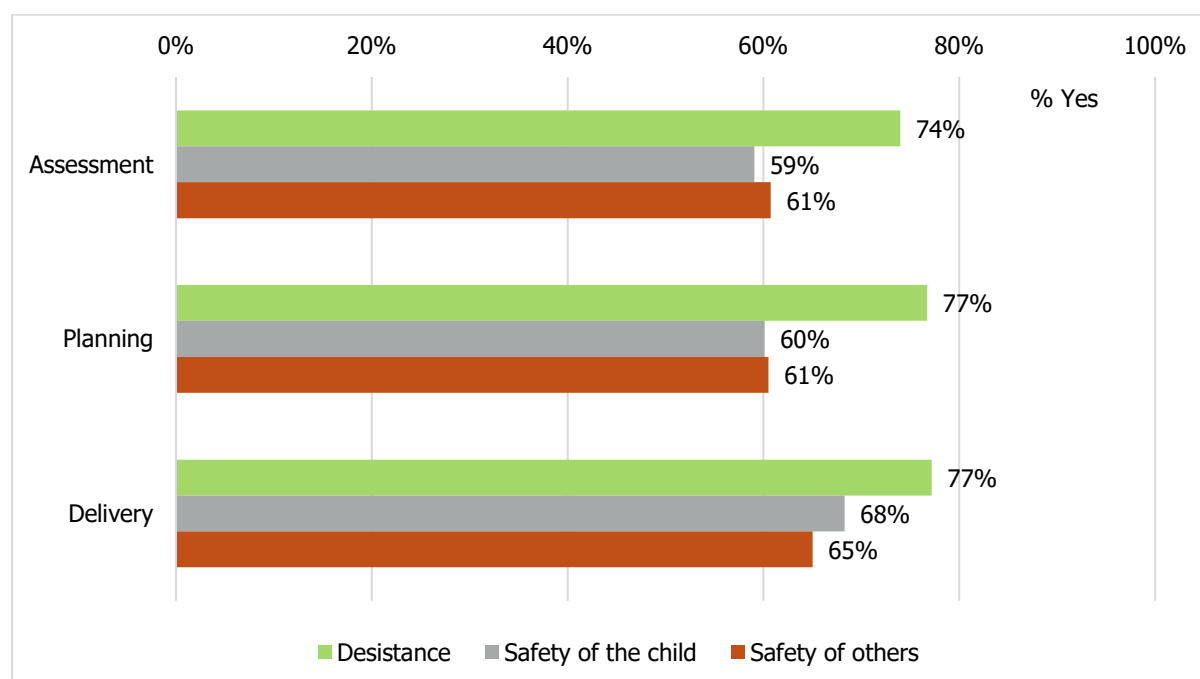
Across those YOTs that were rated poorly, there were a number of common issues. An overly complex or poorly understood framework for managing out-of-court disposals led to poor working between agencies. Where agencies (such as health or education) were poorly represented on the board, these services were often insufficiently delivered at the YOT. Some management boards were also overly reliant on the three standard performance indicators (first time entrants, use of custody and reoffending rates), leaving them lacking detailed understanding of the performance of the YOT.

There was often a lack of recording of the appropriateness and rationales behind disposal decisions (three in ten cases across all the YOTs inspected). Poor communication with police was another key factor, with some areas having very little to no data about police-administered disposals for children where there was no YOT involvement, depriving the YOT of valuable intelligence on both those children and others around them. In one area this problem also existed with an external agency that delivered low-level out-of-court disposals. Feedback to the police about disposals was also typically poor, leaving the police without that valuable intelligence; across all YOTs, the police were not informed of progress and outcomes in a sufficient and timely manner in three out of ten cases inspected. In some YOTs, the child was not met, or assessments were not made until after the decision-making body had made its decision, limiting the potential input of the YOT to that decision.

The effectiveness of leadership and management was not necessarily correlated with the quality of delivery of out-of-court disposals. Some areas had strong management board representation, clear visions and well understood priorities, yet the quality of out-of-court disposal was insufficient. An important responsibility for YOTs is to work with other agencies, and with parents and carers, to try to establish a safe space to support children towards positive, healthy and pro-social lives. However, a theme running through almost all the poorly performing YOTs was an insufficient focus upon the safety of the child and/or other people (see Figure 3 for the case-level data across all the YOTs inspected). Inspectors

found that this was the case even when the child had clear needs or was already involved with other agencies, such as social services, because of those needs. This was particularly stark in those cases where desistance work was excellent, showing good advocacy for the child, while work to support the safety of child and the safety of others was limited at best or generic, rather than tailored to the individual child.

Figure 3: Sufficiency of assessment, planning and delivery in supporting desistance, keeping the child safe and keeping other people safe



Limited work with other relevant agencies, such as schools, social services or police, could lead to an incomplete view of relevant safety issues and inadequate assessments. We also found instances of assessments being completed by unqualified or untrained staff and of assessments not being completed at all. In several YOTs, outside agencies were used for particular disposals, leading to assessments that were substandard or insufficient information being shared with the YOT. Poor inter-agency planning and contingency planning was also a common feature in underperforming YOTs, with some YOTs assuming that if a child was known to social services, they would be taking the lead on safety and wellbeing. Victim work, both taking into account the needs and wishes of victims and protecting actual or potential victims, was typically poor in these YOTs.

2.2 Case-level analysis

2.2.1 Profiles of children receiving out-of-court disposals

Within our domain three out-of-court disposals sample, just over four in five (82 per cent) of the children were male, and their ethnic group was recorded as white in 71 per cent of cases. Approximately three in four (74 per cent) had no previous sanctions.

There were some notable differences between the profiles of children receiving out-of-court disposals and those receiving court disposals (see Table B1 for the full breakdown). Children receiving out-of-court disposals tended to be younger (36 per cent were 14 years old or younger, while the figure for court disposals was only seven per cent), and their ethnic group was less likely to be recorded as black (11 per cent, compared to 17 per cent for court disposals). They were less likely to have previous sanctions,⁴ or to be 'looked after' by children's social services (9 per cent, compared to 26 per cent for court disposals).

Heightened concerns regarding the safety of the child and the safety of other people were also less likely (although around two in five of those subject to out-of-court disposals had a medium safety and wellbeing classification, and a similar proportion had a medium risk of serious harm classification). This reflects the more serious nature of the offences involving children sentenced in court, and the difficulties encountered by these children.

There were further notable differences between the profiles of the children receiving the three types of out-of-court disposal. Those children who received an informal community resolution were most likely to have no previous sanctions (83 per cent), a low safety and wellbeing classification (51 per cent), and a low risk of serious harm classification (73 per cent). This reflects the intended purpose of community resolutions, enabling the police to make decisions about how to deal more proportionately with low-level offending, particularly when a first-time offence. In one in three (34 per cent) of the community resolution cases, the offence committed was a drugs offence, much higher than for all other types of out-of-court and court disposal.

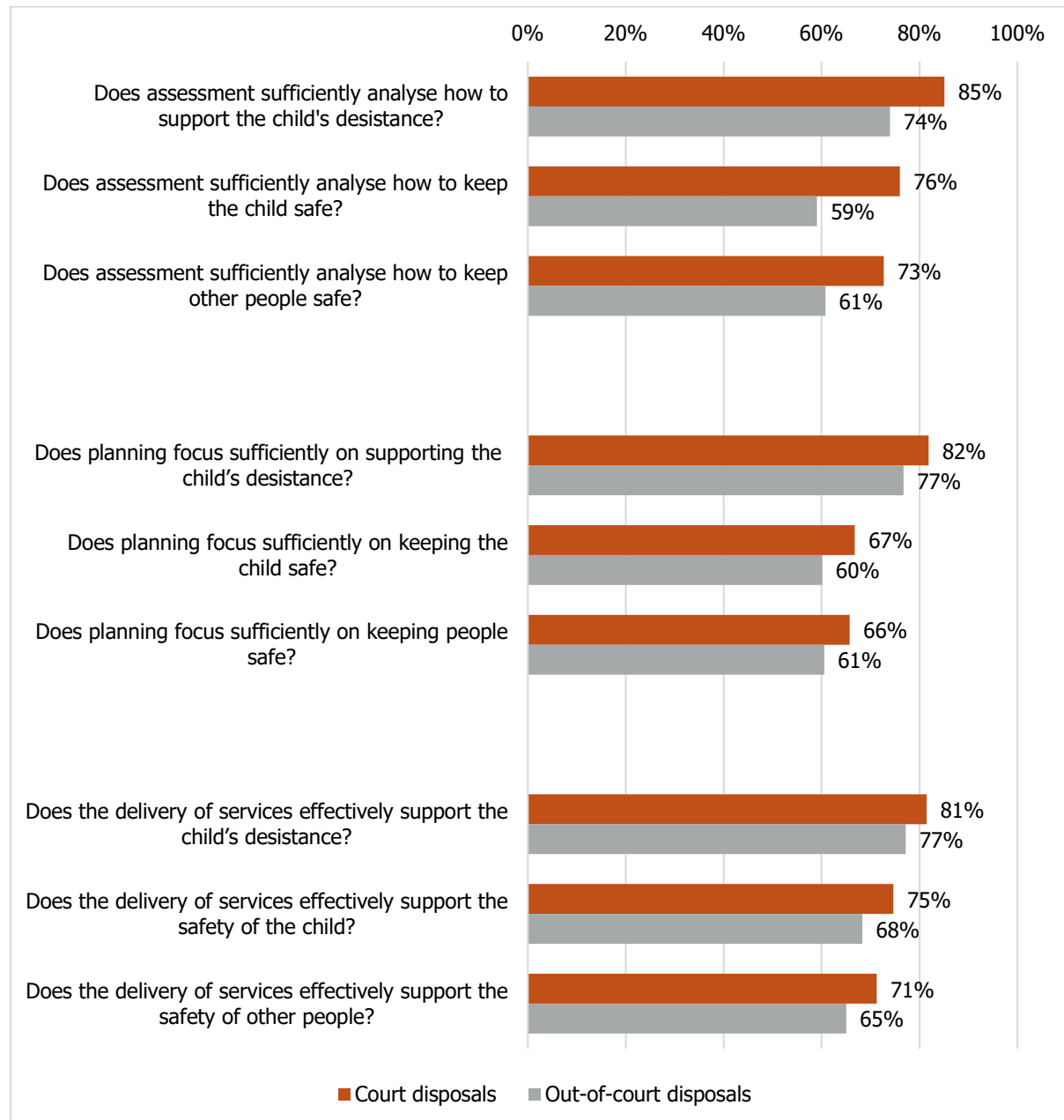
2.2.2 Variations in quality between court and out-of-court disposals

Similar inspection standards are used in relation to our examination of court disposals and out-of-court disposals, allowing us to compare the quality of the work. In all cases, we are looking for a well-informed, personalised and proportionate approach which engages the child and their parents/carers.

As shown by Figure 4, across the comparable standards, the overall quality of the case-level work in relation to out-of-court disposals was below that for court disposals. The difference was particularly marked at the assessment stage in terms of the sufficiency of the focus upon keeping the child safe (17 percentage points) and keeping other people safe (12 percentage points).

⁴ There were only five children who had received five or more previous sanctions in the out-of-court disposals sample, less than one per cent of the total. In contrast, 16 per cent of the children in the court disposals sample had five or more previous sanctions.

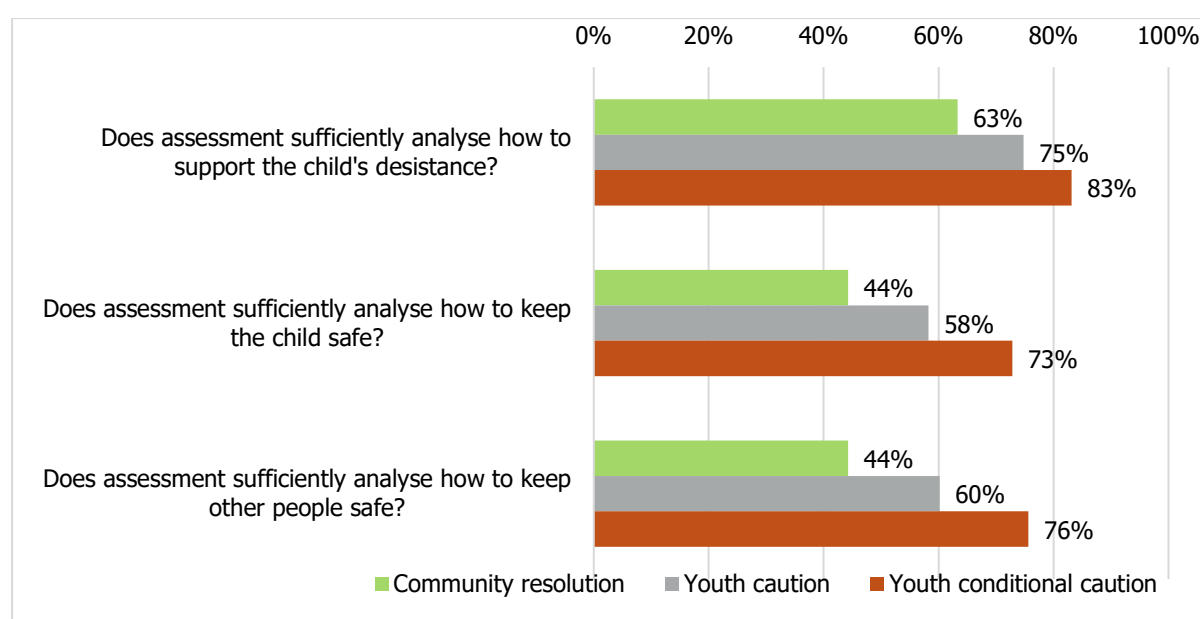
Figure 4: Sufficiency of assessment, planning and delivery – out-of-court vs. court disposals



2.2.3 Variations in the quality of out-of-court disposals

Further analysis of the out-of-court disposal cases revealed that the quality of assessment varied according to the type of disposal.⁵ Controlling for the differences in the profiles of the children, assessment was less likely to be judged sufficient for community resolutions compared to youth conditional cautions in relation to all three key areas of supporting the child's desistance, keeping the child safe and keeping other people safe (see Figure 5). While assessment should always be proportionate to the type of case, we found many examples where insufficient attention had been given to relevant issues and the full context, hindering an appropriately-informed, personalised, whole-child approach. Both planning and implementation were less likely to be judged sufficient for community resolutions in relation to keeping other people safe.

Figure 5: Sufficiency of assessment, by type of disposal



The quality of practice in keeping children safe also differed according to the practitioner's assessment of the levels of concern regarding the child's safety and wellbeing.⁶ As shown by Figure 6, our inspectors were less likely to judge that practice was sufficient in cases where the practitioner had assessed the concerns to be low.⁷ At the assessment stage, the sufficiency of practice fell to 61 per cent for those cases with a low classification. In just over one in three (35 per cent; n=249) of these cases, our inspectors concluded that

⁵ See Table B2 in Appendix B for a full breakdown of judgements for differing sub-groups.

⁶ Every child being supervised by a YOT should have a classification of safety and wellbeing. There are four classifications:

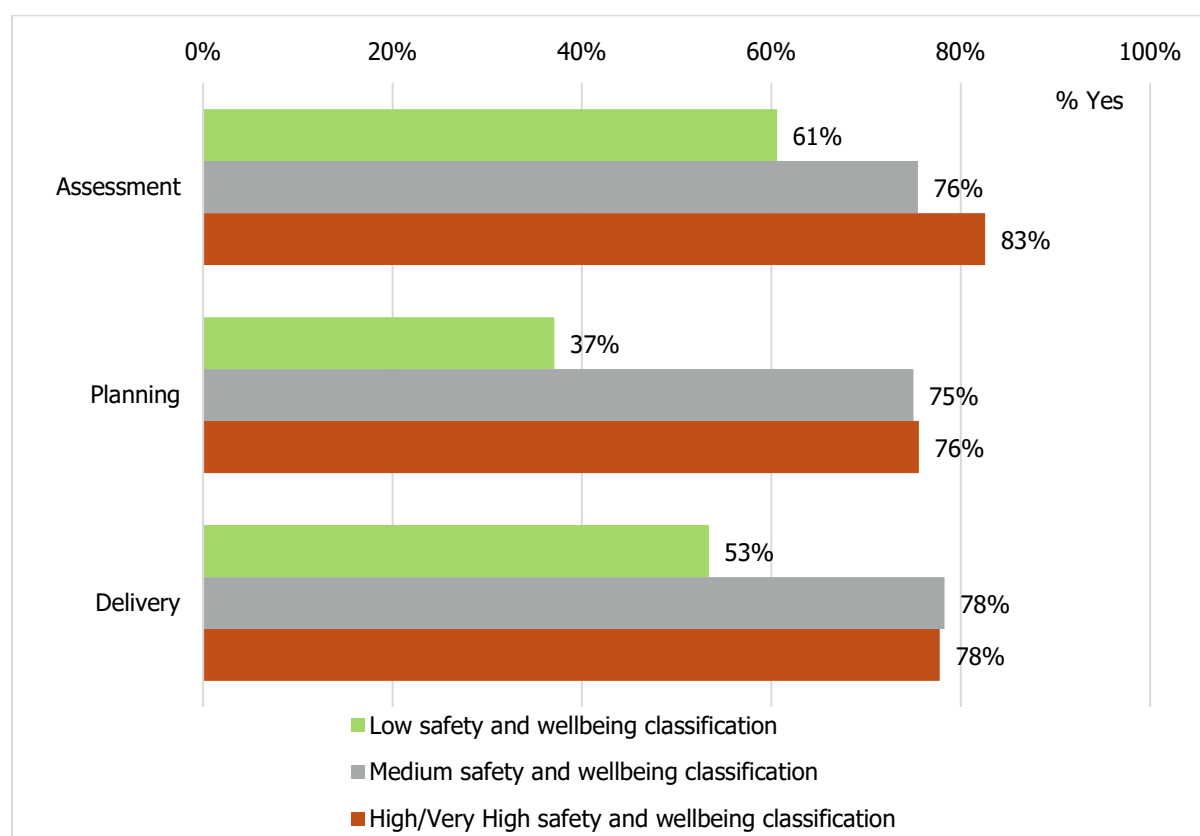
- Low – there are no specific behaviours, events or people likely to cause an adverse outcome.
- Medium – some risk of safety and wellbeing concerns has been identified, but unlikely to cause serious safety and wellbeing adverse outcomes unless circumstances change. This level of risk can be managed under normal case management.
- High – there is a high risk that a potential negative safety and wellbeing outcome will occur, and the impact could be serious. The case may need increased case supervision.
- Very high – the negative safety and wellbeing concern could happen immediately, and the impact will be serious. The case will need increased case supervision.

⁷ See Tables B2 to B4 in Appendix B for a full breakdown of judgements for differing sub-groups.

insufficient recognition had been given to specific concerns and disagreed with the classification.

In all of those cases where our inspectors judged the classification of safety and wellbeing concerns to be medium or above, they then considered the planning and implementation questions. In relation to implementation, sufficiency fell from 78 per cent of those cases with a high/very high or medium practitioner classification to 53 per cent of those cases with a low practitioner classification. There was thus a sub-group of children missing out on potentially beneficial support, with specific concerns having not been initially identified.

Figure 6: Sufficiency of assessment, planning and delivery in keeping the child safe, by safety and wellbeing classification*



* For cases with a low safety and wellbeing classification, our inspectors only made judgements on the planning and implementation questions when they judged that the classification should have been higher.

Similarly, we found that the quality of practice in keeping other people safe differed according to the practitioner's assessment of the risk of serious harm.⁸ As shown by Figure 7, our inspectors were less likely to judge that practice was sufficient in cases where the

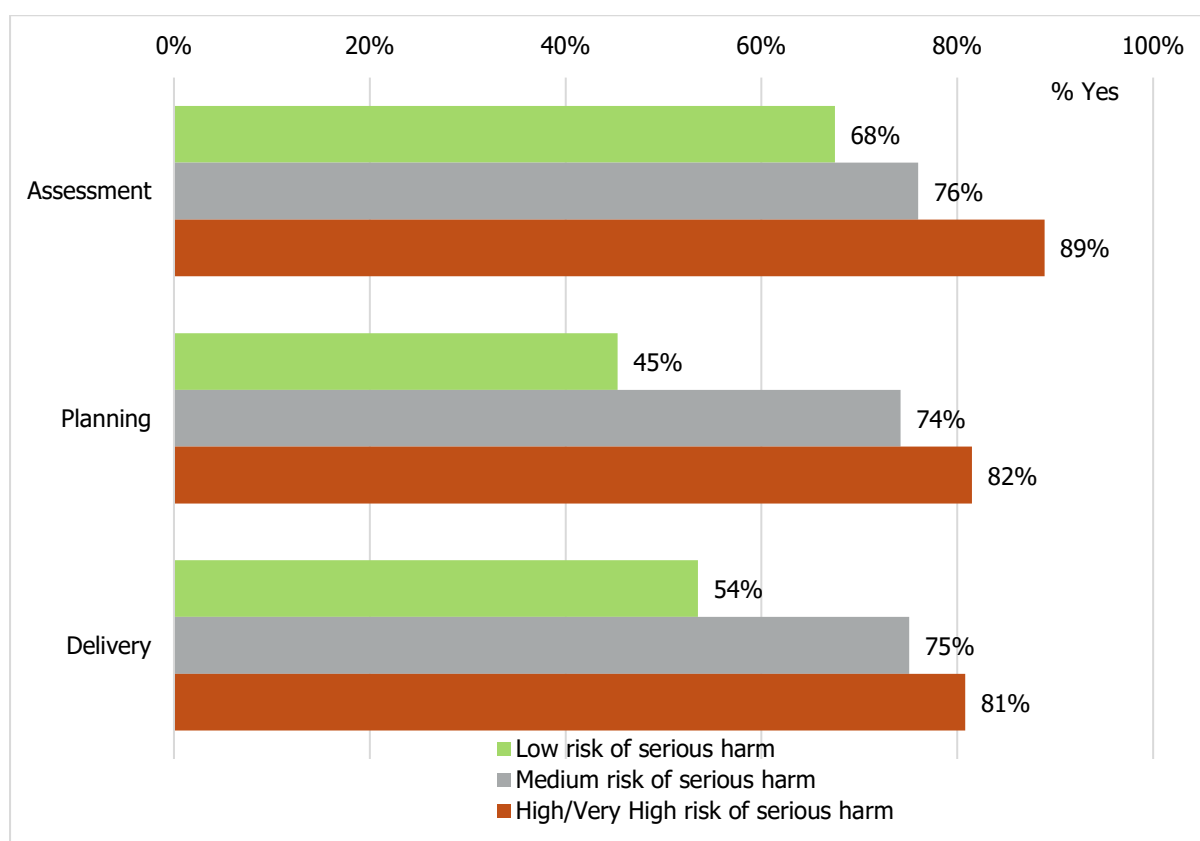
⁸ Every child being supervised by a YOT should have a classification of risk of serious harm, there are four classifications:

- Low - no specific behaviours, events or people likely to cause an adverse outcome.
- Medium - some risk of harm concerns have been identified, but is unlikely to cause serious harm unless circumstances change. Can be managed under normal case management.
- High - high risk that a potential risk of serious harm outcome will occur, and the impact could be serious. The case may need increased case management.
- Very high - the risk of serious harm concern could happen imminently, and the impact would be serious. The case will need increased case supervision.

practitioner had assessed the concerns to be low. At the assessment stage, the sufficiency of practice fell to about two thirds (68 per cent) of those cases with a low classification. In about one in four (26 per cent; n=332) of these cases, our inspectors concluded that insufficient recognition had been given to specific concerns and disagreed with the classification.

In all of those cases where our inspectors judged the classification to be medium or above, they then considered the planning and implementation questions. In relation to implementation, sufficiency fell from 81 per cent of those out-of-court disposal cases with a high/very high practitioner classification to 54 per cent of those cases with a low practitioner classification. Once again, there was a sub-group of children missing out on potentially beneficial support and protections, helping to prevent any escalation, with specific concerns having not been initially identified.

Figure 7: Sufficiency of assessment, planning and delivery in keeping other people safe, by practitioner's risk of serious harm classification*



* For cases with a low risk of serious harm classification, our inspectors only made judgements on the planning and implementation questions when they judged that the classification should have been higher.

In each case examined, inspectors recorded rationales for their judgements. Analysis of this information revealed common enablers and barriers in relation to the effective delivery of out-of-court disposals. Key enablers included the following:

- YOTs have a key role to play in panels to identify the most appropriate disposals. YOTs should thus seek to be involved at the earliest stage where they can inform the panel's decision, utilising a suitable assessment and making sure that the disposal best suits the needs of the child

- multiple techniques to connect with and engage children at the assessment and planning stages should be considered, particularly around sensitive issues. For example, asking the child a question out loud, but allowing them to write down their answers rather than speak them
- an assessment that draws from multiple sources of information such as police, children's social services, schools, parents and YOT records of siblings, can build a more complete picture of the factors influencing the child's offending and relevant safety concerns
- planning should consider the work of other agencies engaged with the child to better coordinate and compliment delivery. Joint planning can also identify areas that other agencies may be able to continue delivering post-disposal
- plans should be proportionate to the needs of the child and to the disposal. For many children on out-of-court disposals, it will be their first disposal and a light touch may be all that is required. However, children with more complex needs may require more extensive work with other agencies, continuing after the disposal has ended
- plans should build on strengths and protective factors, such as facilitating a child's return to full-time education, developing hobbies and interests, and helping the child to build emotional resiliency and understanding
- flexibility in the delivery of interventions can assist with engagement and compliance. An example might be selecting times to work around the child's commitments, such as school or work, or choosing delivery venues to help the child avoid entering areas where they may feel unsafe.

Good practice examples

Claire, a 17-year-old girl, had received a youth conditional caution for two counts of common assault. The assessment and youth conditional caution were managed by a seconded police officer. The assessment interview took place prior to discussion at a youth conditional caution panel, following which the AssetPlus document was completed. The initial appointment was attended jointly by Claire's case worker and her new social worker, demonstrating collaborative working on this complex case from the outset.

The worker was knowledgeable and passionate, and demonstrated a detailed understanding of Claire's complex needs. The assessment was of high quality with accurate risk assessments in all areas. There could have been greater links made with past trauma within the safety and wellbeing section, but Claire's experiences were included in earlier sections and a history was also available through social care systems. Claire's voice was evident in the assessments, with links being made to comments from the self-assessment document.

The intervention plan for Claire was focused on the offence and consequences, but other relevant areas were covered through referrals to a forensic adolescent practitioner, education, training and employment staff, and substance misuse services. These did not form part of the youth conditional caution as they were deemed voluntary and not enforceable. The joined-up approach to work with Claire contributed to successful engagement with both the youth conditional caution and social care work. The collaborative approach also allowed for exit planning to take place, with the allocated social worker being able to offer a continuation of work where necessary.

Louise, a 15-year-old girl, had received a youth conditional caution for the offence of shoplifting and having a knife in her possession. Louise had no previous offending behaviour recorded.

At the time of the offence, Louise was 'sofa surfing' with a friend due to a deterioration in her relationship with her mother. A basic assessment, including a reasonable analysis of the offence, was completed within a short time and delivery began promptly. Much time was spent on welfare issues, ensuring the safety and wellbeing of Louise. She was sharing her supported accommodation with a girl who was known to services to be at risk of sexual exploitation and this was having a negative impact on Louise.

There was good evidence of a respectful, supportive relationship between Louise and her case manager, and there were no issues with engagement or compliance. The case manager encouraged Louise's return to education and responded to Louise's wishes to have a career caring for others, recognising that this would support her to move in a positive, pro-social direction. After application filling, shopping for interview clothes etc., Louise commenced her work experience.

The planned Knife Crime intervention was not commenced, but the case manager confirmed that there were continual discussions regarding the consequences of carrying knives and the possible impact on others should Louise feel her own safety was in question.

Bruce, a 16-year-old boy, was subject to a youth conditional caution following a non-dwelling burglary offence. Both the index offence and previous offences committed by Bruce did not indicate a high risk of serious harm. However, the assessment provided details of concerning non-convicted behaviours including robberies, use of weapons, and an apparent inability to empathise and understand emotions. These were all appropriately taken into account at the assessment stage.

The positive focus on keeping others safe continued throughout the delivery of the disposal, with robust and meaningful plans in place, and actions undertaken to manage safety and wellbeing concerns. There was a strong and consistent focus on relevant areas in supervision, and evidence of creative ways of achieving results whilst taking Bruce's learning needs into account. Bruce's family were actively involved throughout, although it would have been helpful to have a greater focus on the child's girlfriend, particularly with his unhealthy attitudes and general behaviour of concern. However, there was no evidence of any immediate safety concerns.

The following barriers, often linked to the local model and policies rather than being a reflection of practitioner skills, were also evident from the information recorded by our inspectors:

- where assessments are not timely, they cannot be used to identify the most appropriate disposal, or assist with the planning of interventions. Given that many out-of-court disposals last only a few months, important information can be missed until it is too late
- assessments which focus only on the index offence often miss vital details about the child's life, including key offending-related factors, assets and opportunities that might aid desistance, and concerns regarding their safety

- assessments conducted with an inappropriate tool, failing to encompass desistance, the safety of the child and the safety of others, can miss vital information and make it very difficult to produce effective plans
- minimal planning, or planning undertaken too late, results in the delivery of unfocused interventions, and fails to clarify responsibilities should there be a change in the child's situation
- failure to connect and engage with the child, and subsequent poor enforcement, can result in the delivery of no or minimal interventions
- delays at each stage (e.g. between offence, assessment, disposal and interventions) can result in missed opportunities to prevent further offending and can leave children with safety and wellbeing issues vulnerable.

Poor practice examples

Dinah, a 16-year-old girl, had received a youth conditional caution for an offence of arson, having previously had a youth caution for offences of criminal damage and common assault. She was 'looked after' by children's social services, although there were no details in the case records as to why, for how long, or any familial background information.

There was no information regarding Dinah's regular absences from her care home or issues around emotional regulation. Regrettably, there were no assessments or plans in place to manage the safety and wellbeing of Dinah or other people, despite the nature of her offence, her risk-taking and harmful behaviour towards herself, the case manager's concerns that she was potentially influencing other children in the care home, and concern that Dinah was a substance misuser.

Fortunately, Dinah had a social worker, residential care staff and also some contact with her mother, so there were others involved with safeguarding responsibilities. However, this did not remove the responsibility of the YOT to provide an appropriate assessment and to ensure effective delivery of the youth conditional caution.

Michael, a 14-year-old boy, was subject to a youth caution with voluntary conditions for an offence of racially aggravated harassment. Michael was assessed as low risk in terms of reoffending, the safety of others and his own safety and wellbeing. However, the assessment was limited in analysis and did not make use of sources of information that were available. No pattern of offending was assessed, and information that Michael was at risk of child sexual exploitation and harmful sexual behaviour was not considered.

There was no partnership work within the case and the case manager delivered the plan through a single agency approach. There was resistance from Michael's school to work with the YOT and there was little input from the police to support his desistance. At the outset of the case, children's social care were involved, but this ceased when the YOT commenced their delivery, despite limited progress on a child in need plan.

The case manager completed some appropriate interventions with Michael and built positive relationships with Michael and his family. However, due to the lack of partnership working, the effectiveness of these interventions was restricted. Exit planning was also poor.

John, a 14-year-old boy, was subject to a community resolution for criminal damage and a public order offence. John was in private fostering after his adoptive mother was unable to cope with his behaviour. He was associating with negative peers and there were concerns around substance use.

However, none of these issues were explored as no assessment was completed. John was referred directly to the decision-making panel, and the decision for 'triage and offender prevention' was made purely on the basis of information available at that time. There were no case records at all and no feedback had been received from the organisation due to be working with John, although the case manager (in relation to a different matter) had been told more recently that the intervention had been partially delivered.

Over the course of the four months following the imposition of the community resolution, John went on to commit a further dozen offences on a number of separate occasions. He was awaiting the outcome of a further panel in relation to these matters.

3. Conclusion

The focus in this bulletin has been upon the quality of delivery of out-of-court disposals. Compared to court disposals, there is much variation across England and Wales as to how out-of-court disposals are both received and administered. YOTs are neither a passive partner, nor the final arbiter of out-of-court disposals, often existing within complex arrangements with other agencies, most notably the police, who still retain the legal authority to give and administer out-of-court disposals. These arrangements are often bespoke to particular areas, and rules about which cases are seen by the YOT before a disposal is given, how much input they have in the decision regarding the most appropriate disposal, and how that disposal is then administered can differ across police force or local authority borders. There is thus an element of 'postcode lottery' in the use of out-of-court disposals.

Across our YOT inspections, we found considerable variation in the quality of work with children subject to out-of-court disposals. We found that the best performing YOTs tended to have a robust framework for managing out-of-court disposals, where staff understood their roles and that of their partners and where inter-agency communication was strong. Skilled and engaged board members from other agencies were often able to facilitate effective multi-agency working. Looking across the cases examined by our inspectors, common enablers and barriers to effective delivery of out-of-court disposals were identified. The enablers highlight the importance of: (i) early YOT involvement in decision making; (ii) utilising multiple sources of information to build a complete picture of the child; (iii) ensuring that plans are proportionate and build upon strengths; (iv) coordinating delivery across agencies; and (v) ensuring flexibility in delivery to maximise engagement.

Some YOTs have chosen to use full AssetPlus assessments for out-of-court disposals, while others have used third party assessment tools, screening tools or cut down versions of AssetPlus. Some of these alternatives focus much more on the offence and the underlying reasons, rather than the wider circumstances of the child and can miss important safety issues, hindering a whole-child approach. Because out-of-court disposals are primarily designed to be used for crimes of a less serious nature, there can be an unfortunate tendency to overlook concerns regarding the safety of the child or the safety of others, including other children. In fact, lower YOT ratings across our out-of-court inspection standards are usually driven by failings in relation to keeping the child safe and keeping other people safe.

Some poorly performing YOTs had confusing systems and unclear policies around out-of-court disposals, while others had unengaged or inexperienced management boards which failed to lead and resolve difficult issues around joint working. However, some YOTs received poor ratings for their out-of-court disposal work, even when their management and aspects of their delivery were highly regarded by inspectors. The lack of focus, particularly around the safety of the child and the safety of others, was often in the face of identified or identifiable concerns.

Out-of-court disposals reflect a form of diversion from court and the more formal criminal justice system, with the goal of helping children to desist from offending before it becomes more serious and entrenched. They provide opportunities to ensure that children receive the right help at the right time in a proportionate and holistic manner. Identifying safety

concerns, either in relation to the children themselves or others, including other children and members of their family, is important to prevent long-lasting effects on life outcomes. YOTs need to pay sufficient attention to such issues and not assume that they will be picked up by other agencies. Safety concerns can of course escalate over time, and well-focused, personalised and coordinated multi-agency activity has the potential to benefit both the children and wider society in the longer term.⁹

Moving forward, we will continue to examine the quality of out-of-court disposals in our routine YOT inspections. Furthermore, we have now introduced a specific standard focused on out-of-court disposal policy and provision to run alongside our review of individual cases. The underpinning prompts include the following:

- Does the policy set out the distinct and substantial differences between community resolutions and formal out-of-court disposals?
- Does the out-of-court disposal eligibility criteria include an escalation process which avoids the inappropriate overuse of specific disposals?
- Is a wide range of out-of-court disposal interventions available that are strengths based, future focused and promote positive child outcomes?
- Are arrangements set out to ensure that children are kept safe?
- Are arrangements set out to ensure the safety of other people?
- Are arrangements in place to ensure that out-of-court disposals are consistently applied in a timely and robust manner?

We will also be examining whether the policy and provision is regularly evaluated and reviewed, and whether children and their parents or carers are meaningfully involved in this process. We concluded in our 2018 thematic inspection that a greater focus is required upon local and national monitoring and evaluation of out-of-court disposals, strengthening the evidence base for their most effective use, and this still remains the case.

⁹ See Williams and Franklin (2021) for an analysis of the costs upon children's services in relation to later crisis support compared to earlier interventions.

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Annex A: Methodology

The findings presented in this bulletin are based on data from 43 youth inspections completed between June 2018 and February 2020 (fieldwork weeks), with the reports for 39 of these being published (as set out in Table A1 below).¹⁰

Table A1: Youth inspections, June 2018 – February 2020

YOT	Month of report publication
Derby	August 2018
Hampshire	September 2018
Hertfordshire	September 2018
Bristol	September 2018
Sandwell	November 2018
Essex	December 2018
Warwickshire	December 2018
Blackpool	December 2018
Barking and Dagenham	December 2018
Hounslow	January 2019
Manchester	February 2019
Wandsworth	March 2019
Wrexham	March 2019
Western Bay	March 2019
Oldham	April 2019
Lambeth	April 2019
Sefton	May 2019
East Riding	May 2019
Liverpool	June 2019
South Tees	June 2019
Walsall	June 2019
Dudley	June 2019
Lancashire	July 2019
Sheffield	August 2019
Surrey	August 2019

¹⁰ Solihull, Stoke on Trent, West Berkshire, and Wokingham were pilot small YOT inspections and did not result in a published report.

YOT	Month of report publication
Newham	September 2019
Leeds	November 2019
Leicester City	November 2019
Croydon	December 2019
Brent	December 2018
Bradford	January 2020
Southampton	January 2020
Gloucestershire	January 2020
Nottingham City	March 2020
Camden	May 2020
Oxfordshire	May 2020
Luton	May 2020
Medway	June 2020
Cardiff	July 2020

Domain three: Out-of-court disposals

The cases selected were those of children who had been given out-of-court disposals and had been under YOT supervision for approximately four to six months. This enabled work to be examined in relation to assessing, planning, implementing and joint working.

The overall sample size in each inspection was set out to achieve a confidence level of 80 per cent (with a margin of error of five percentage points), and we ensured that the ratios in relation to gender and type of disposal matched those in the eligible population.

All sampled cases were allocated to individual inspectors. To support the reliability and validity of their judgements against our standards framework, all cases were examined using standard case assessment forms, underpinned by rules and guidance,¹¹ and further reinforced through training and quality assurance activities.

Analysis

In this bulletin, the percentages presented in the tables and charts relate to the case assessments and inspectors' judgments. Logistic regression has been used to analyse the case assessment data for out-of-court disposals, examining which sub-group differences were significant when accounting for the relationship between the variables. The independent variables were entered using a forward stepwise approach, incorporating the most significant variables in turn (statistical significance <0.5) and then removing them at a later stage if necessary (significance >0.1). This approach was considered appropriate as the analysis was exploratory in nature and there was no clear evidence as to the relative importance of various independent variables. Associations which were found to be

¹¹ The rules and guidance can be accessed here: <https://www.justiceinspectorates.gov.uk/hmiprobation/about-hmi-probation/about-our-work/documentation-area/youth-offending-services-inspection/>.

statistically significant are highlighted in the bulletin, i.e. those unlikely to have occurred randomly or by chance.

In each case, inspectors recorded rationales for their judgements. Key enablers and barriers in relation to the effective delivery of out-of-court disposals were identified through randomising the cases (to ensure that views from a mix of areas were considered) and undertaking thematic analysis, until it was felt that a reasonable saturation point had been reached. Qualitative analysis was also undertaken in relation to our organisational-level judgments on the overall volume, range, and quality of services in place.

Outcomes for children were outside the scope of the analysis, as our standards framework focuses upon those key 'inputs' and 'activities' which are the drivers of positive outcomes. We are planning to match our case assessment data with appropriate outputs/outcomes data, enabling further analysis and validation of the inputs → activities → outputs → outcomes logic model.

Annex B: Analysis outputs

Table B1: Profiles of out-of-court and court disposal cases

		Out-of-court disposals				Court disposals			
		Community resolution	Youth caution	Youth conditional caution	All	Referral Order	Youth Rehabilitation Order	Custody	All
Gender	Male	81%	74%	86%	82%	84%	91%	99%	88%
	Female	20%	26%	14%	18%	16%	9%	1%	12%
Age	10-14	34%	36%	37%	37%	9%	7%	4%	8%
	15-16	36%	43%	44%	41%	36%	36%	24%	35%
	17+	30%	21%	19%	23%	55%	57%	73%	58%
Ethnic group	White	73%	73%	71%	71%	68%	66%	61%	66%
	Black	14%	8%	9%	11%	15%	17%	23%	17%
	Asian	3%	9%	9%	7%	6%	4%	4%	5%
	Mixed	9%	7%	9%	9%	10%	11%	10%	10%
	Other	1%	4%	1%	1%	2%	2%	2%	2%
Looked After Child	Yes	11%	10%	8%	9%	19%	34%	42%	26%
	No	89%	90%	93%	91%	81%	66%	58%	74%
Number of previous sanctions	0	83%	63%	69%	74%	54%	11%	15%	35%
	1	11%	21%	21%	17%	25%	18%	11%	21%
	2+	7%	16%	10%	10%	21%	71%	74%	44%
Offence	Violence	37%	47%	48%	44%	52%	41%	48%	48%
	Sexual offences	3%	2%	3%	3%	2%	2%	1%	2%
	Burglary	2%	3%	4%	3%	4%	11%	10%	7%
	Robbery	0%	2%	1%	1%	4%	11%	14%	8%
	Theft and handling stolen goods	8%	13%	6%	8%	9%	8%	6%	8%
	Criminal damage excluding arson	10%	13%	8%	9%	5%	4%	1%	4%

		Out-of-court disposals				Court disposals			
		Community resolution	Youth caution	Youth conditional caution	All	Referral Order	Youth Rehabilitation Order	Custody	All
	Drug offences	34%	13%	10%	19%	7%	8%	5%	7%
	Motoring offences	1%	2%	4%	3%	12%	7%	5%	9%
	Other offences	6%	7%	17%	10%	5%	9%	12%	7%
Safety and wellbeing classification	Low	51%	40%	38%	43%	26%	5%	3%	16%
	Medium	35%	44%	46%	42%	48%	42%	31%	44%
	High/Very High	15%	17%	16%	15%	26%	53%	66%	40%
Risk of serious harm	Low	73%	59%	46%	57%	33%	10%	2%	22%
	Medium	25%	37%	47%	38%	55%	55%	23%	51%
	High/Very High	2%	4%	7%	5%	11%	35%	75%	27%

Table B2: Sufficiency of assessment

		Does assessment sufficiently analyse how to support the child's desistance?		Does assessment sufficiently analyse how to keep the child safe?		Does assessment sufficiently analyse how to keep other people safe?	
		n	% Yes	n	% Yes	n	% Yes
All Cases		722	74.0%	723	59.1%	721	60.7%
Gender	Male	590	74.6%	590	61.4%	588	61.2%
	Female	130	72.3%	131	48.9%	131	58.0%
Age	10-14	254	76.4%	255	60.8%	255	63.1%
	15-16	288	75.0%	289	60.2%	288	62.2%
	17+	168	68.5%	167	53.9%	166	53.6%
Ethnic group	White	506	75.7%	507	59.0%	505	61.6%
	Black	77	62.3%	77	54.5%	77	54.5%
	Asian	48	83.3%	48	70.8%	48	77.1%
	Mixed	62	69.4%	62	61.3%	62	54.8%
	Other	11	54.5%	11	45.5%	11	45.5%
Looked After Child	Yes	65	72.3%	65	55.4%	65	53.8%
	No	627	75.0%	628	59.7%	626	61.3%
Disposal	Community resolution	286	63.3%	287	44.3%	287	44.3%
	Youth caution	115	74.8%	115	58.3%	113	60.2%
	Youth conditional caution	320	83.1%	320	72.8%	320	75.6%
Safety and wellbeing classification	Low	248	77.4%	249	60.6%	248	68.1%
	Medium	245	82.0%	245	75.5%	245	73.1%
	High/Very High	92	90.2%	92	82.6%	92	81.5%
Risk of serious harm	Low	331	77.9%	332	64.2%	332	67.5%
	Medium	225	84.4%	225	74.2%	225	76.0%
	High/Very High	27	96.3%	27	88.9%	27	88.9%
Number of previous sanctions	0	490	73.7%	491	59.5%	489	59.9%
	1	111	73.9%	112	57.1%	112	59.8%
	2+	66	75.8%	65	58.5%	65	67.7%

N.B. Shaded cells indicate that the sub-group differences were significant (based upon logistic regression analysis).

Table B3: Sufficiency of planning

		Does planning focus sufficiently on supporting the child's desistance?		Does planning focus sufficiently on keeping the child safe?		Does planning focus sufficiently on keeping people safe?	
		n	% Yes	n	% Yes	n	% Yes
All Cases		717	76.7%	514	60.1%	385	60.5%
Gender	Male	586	76.8%	405	62.5%	325	61.2%
	Female	129	77.5%	107	51.4%	60	56.7%
Age	10-14	253	79.1%	190	61.1%	156	60.9%
	15-16	288	74.7%	207	61.4%	151	62.3%
	17+	164	77.4%	107	55.1%	69	55.1%
Ethnic group	White	501	77.4%	355	61.7%	261	60.2%
	Black	77	71.4%	56	50.0%	38	55.3%
	Asian	48	81.3%	31	67.7%	32	65.6%
	Mixed	62	72.6%	48	58.3%	34	70.6%
	Other	11	63.6%	10	50.0%	7	100.0%
Looked After Child	Yes	64	73.4%	55	60.0%	38	63.2%
	No	623	77.2%	436	60.6%	333	60.1%
Disposal	Community resolution	285	70.9%	197	47.2%	117	40.2%
	Youth caution	112	75.0%	79	60.8%	60	51.7%
	Youth conditional caution	319	82.4%	237	70.5%	207	74.9%
Safety and wellbeing classification	Low	248	82.3%	89	37.1%	90	55.6%
	Medium	244	82.0%	240	75.0%	162	72.2%
	High/Very High	91	87.9%	90	75.6%	69	75.4%
Risk of serious harm	Low	330	82.4%	198	58.1%	86	45.3%
	Medium	223	82.1%	194	72.7%	209	74.2%
	High/Very High	27	85.2%	26	80.8%	27	81.5%
Number of previous sanctions	0	487	78.2%	338	59.2%	257	63.4%
	1	111	76.6%	82	63.4%	56	57.1%
	2+	64	70.3%	55	69.1%	44	56.8%

N.B. Shaded cells indicate that the sub-group differences were significant (based upon logistic regression analysis).

Table B4: Sufficiency of delivery

		Does service delivery support the child's desistance?		Does service delivery promote the safety and wellbeing of the child?		Does the implementation and delivery of services effectively support the safety of other people?	
		n	% Yes	n	% Yes	n	% Yes
All Cases		710	77.2%	511	68.3%	383	65.0%
Gender	Male	582	77.8%	405	68.4%	324	65.4%
	Female	126	74.6%	104	68.3%	59	62.7%
Age	10-14	251	82.1%	189	71.4%	155	68.4%
	15-16	287	74.9%	208	67.8%	152	67.8%
	17+	160	74.4%	104	64.4%	67	52.2%
Ethnic group	White	494	79.4%	352	69.3%	259	65.6%
	Black	77	68.8%	56	62.5%	38	60.5%
	Asian	48	79.2%	31	77.4%	32	75.0%
	Mixed	62	69.4%	48	62.5%	34	64.7%
	Other	11	54.5%	10	60.0%	7	71.4%
Looked After Child	Yes	63	77.6%	54	68.5%	37	67.6%
	No	617	74.6%	434	68.9%	332	64.5%
Disposal	Community resolution	280	72.5%	193	58.5%	115	47.0%
	Youth caution	111	70.3%	79	67.1%	61	60.7%
	Youth conditional caution	318	83.6%	238	76.5%	206	76.2%
Safety and wellbeing classification	Low	246	80.5%	88	53.4%	90	66.7%
	Medium	241	83.8%	240	78.3%	161	73.3%
	High/Very High	90	78.9%	90	77.8%	69	71.0%
Risk of serious harm	Low	327	81.3%	197	68.0%	86	53.5%
	Medium	221	80.5%	195	76.9%	209	75.1%
	High/Very High	26	80.8%	25	88.0%	26	80.8%
Number of previous sanctions	0	484	78.1%	339	68.4%	256	67.2%
	1	110	77.3%	82	70.7%	57	61.4%
	2+	63	71.4%	54	72.2%	43	65.1%

N.B. Shaded cells indicate that the sub-group differences were significant (based upon logistic regression analysis).

Table B5: Sufficiency of joint working

		Are the YOT's recommendations sufficiently well-informed, analytical and personalised to the child, supporting joint decision making?		Does the YOT work effectively with the police in implementing the out-of-court disposal?	
		n	% Yes	n	% Yes
All Cases		670	72.8%	494	78.5%
Gender	Male	546	72.3%	403	78.9%
	Female	123	74.8%	89	77.5%
Age	10-14	239	72.8%	183	76.5%
	15-16	268	73.5%	199	80.9%
	17+	151	71.5%	103	77.7%
Ethnic group	White	472	74.8%	345	80.0%
	Black	71	66.2%	55	70.9%
	Asian	47	72.3%	34	82.4%
	Mixed	55	63.6%	40	67.5%
	Other	10	60.0%	9	100.0%
Looked After Child	Yes	62	69.4%	38	81.6%
	No	579	72.9%	433	78.5%
Disposal	Community resolution	249	71.1%	121	78.5%
	Youth caution	104	70.2%	62	72.6%
	Youth conditional caution	316	75.0%	311	79.7%
Safety and wellbeing classification	Low	233	78.5%	183	80.9%
	Medium	236	75.8%	179	80.4%
	High/Very High	83	71.1%	65	84.6%
Risk of serious harm	Low	308	76.9%	232	81.9%
	Medium	216	75.0%	169	79.3%
	High/Very High	25	80.0%	23	87.0%
Number of previous sanctions	0	448	72.1%	334	78.1%
	1	107	76.6%	85	78.8%
	2+	61	70.5%	48	79.2%

N.B. Shaded cells indicate that the sub-group differences were significant (based upon logistic regression analysis).