

Whole System Approach to Youth Justice: Guidance for Practitioners

Contents

Introduction	2
Early and Effective Intervention (EEI).....	3
Youth Justice Management Unit and EEI	4
1. Police Verbal Warning	4
2. Police Warning Letter.....	4
3. Police Restorative Justice Warning.....	4
4. Referral to Partner Agency	4
EEI Referrals to Partner Agencies:.....	5
Children’s Services Social Work	5
Criminal Justice Social Work.....	Error! Bookmark not defined.
Barnardos Aberdeenshire Youth Initiative (BAYI)	5
Single/Joint Report.....	5
Report Submitted to the Scottish Children's Reporter Administration (SCRA)	6
Report to the Procurator Fiscal	6
Remittal To A Children’s Hearing.....	7
Direct Fiscal Measure	7
Diversion from Prosecution.....	7
Prosecution.....	8
Court Support	9
Care and Risk Management (CARM).....	9
Services	10
Additional Resources	10
Appendix 1- Process Diagram.....	11

Introduction

The Scottish Government's Whole Systems Approach (WSA) was introduced in 2011 aiming to address the needs of young people who offend. It is underpinned by Getting it Right For Every Child (GIRFEC) and based on research which shows that the long term outcomes for young people involved in offending behaviour could be improved by diverting them away from statutory measures, prosecution and custody. Aberdeenshire has implemented this approach since 2012.

It is important to remember that the vast majority of our young people are a credit to themselves, their parents and guardians, their schools, and communities. It is only a very small minority who get involved in offending, and an even smaller minority of them that cause the most serious problems. Young people are still growing in maturity and, if offered timely, appropriate and proportionate interventions, have a better chance of changing their behaviour. In general terms, the focus is on diverting young people from further offending, rather than punishing through the courts ideology which is in keeping with the principles of the Children's Hearings system.

The Scottish Government has prioritised work that supports partners to take forward the development of the WSA. This approach involves putting in place streamlined and consistent planning, assessment and decision making processes for young people who offend, ensuring they receive the right help at the right time. The ethos of the WSA suggests that many young people could and should be diverted from statutory measures, prosecution and custody through early intervention and robust community alternatives.

The whole system approach aims to support all local areas to achieve positive outcomes for some of our most vulnerable young people, to ensure they reach their full potential and become successful contributors to their communities and wider society though:

- Early and Effective interventions for low level offences, offering support and advice to young people in order to address need and change behaviour.
- Diversion from prosecution, where the needs and risks of the young person are addressed.
- Robust alternatives to secure care and custody. Locking up young people is not effective in reducing reoffending. By providing the Children's Panel and Courts with robust alternatives to custody young people's risks and needs can be addressed within the community.
- Effective risk management measures; where the risks some young people present is managed by partners through the children's hearings system as opposed to adult courts.
- Supporting young people if they do appear in court, to aid their understanding of the process and advise decision makers of options available within the community.

- Support offered as part of reintegration and transition back to the community from secure care and custody, including working with families in order to reduce re-offending.
- Encouraging more cases to be dealt with through the children's hearings system rather than adult court.
- Retaining more young people on supervision requirements through the children's hearing system, where there is a need to do so.

Please refer to APPENDIX 1 for a process diagram of how the WSA operates in Aberdeenshire.

Early and Effective Intervention (EEI)

The need to intervene as early as possible in a child or young person's life when a concern is identified is well documented – and research tells us that problems become worse, more entrenched, and more difficult to resolve as time goes by. This is why it is so important to deliver proportionate, timely and appropriate help when a need is identified. This means that public agencies need to provide a supportive environment for children, embracing the role of parents and communities to make a difference in their children's lives.

Effective use of EEI should mean that fewer children and young people require significant additional resources or are referred to the Children's Reporter. This is because issues are being identified and addressed earlier.

<http://www.cycj.org.uk/wp-content/uploads/2016/10/EEI-the-clue-is-in-the-name.pdf>

The Whole Systems Approach encourages retention of young people 16+ on CSOs where appropriate. Termination of supervision should not be recommended solely if:

- The young person has outstanding offences - This will likely lead to them being fast tracked into the criminal justice system and often into the prison system.
- On the basis of the age of the young person (unless approaching 18 years) in line with current legislation and the United Nations Convention on the Rights of the Child (UNCRC).
- As a result of failure to engage with services that are assessed as necessary. In line with the Kilbrandon principles, non-engagement can actually be a reason to ensure compulsory measures are in place and every effort should be made to improve the young person's response, taking into account their individual needs and views.
- When the young person is in the adult court system or has been given a custodial sentence. If a young person subject to a CSO is simultaneously prosecuted in court, remaining on a supervision requirement can provide them with the additional support they require, which is not dependent on their consent, whilst going through a complex adult system. Remaining on a CSO allows for the young person's wider care needs to be addressed, family work to continue and could also result in any further offences (especially if committed whilst in secure care/custody) being dealt with through the children's hearings system. Engagement with a young person on a statutory order during the period

of transition back into community living can be crucial to achieving best long term outcomes.

Youth Justice Management Unit and EEI

In Aberdeenshire, offences committed by young people over the age of 8 and under the age of 18 are dealt with by Police as 'youth justice' cases. When an offence is committed by a young person, it is investigated by Police Officers and where sufficient evidence is found they will formally caution and charge the young person.

In Aberdeenshire, the investigating officer will then submit a report to the Youth Justice Management Unit (YJMU). The Unit is made up of experienced youth justice practitioners and it is their responsibility to agree how best to deal with the offence. Youth justice processes follow a welfare-focused approach to youth offending, which aims to address the causes of behaviour to prevent further criminal offences.

The YJMU will carry out checks on the young person to highlight any previous contact with the Police. For young people who have committed an offence previously, or if additional concerns are raised as part of the enquiry, the YJMU may liaise with key partner agencies including the child's school and relevant Council Social Work teams in an attempt to determine the cause of the offending behaviour. The YJMU will thereafter select the appropriate response to the charge. None of the EEI responses will result in a formal criminal record. However, details of the offence will be held on the Police databases and will affect Police response to any future offending. An explanation of each of the options is given below:

1. **Police Verbal Warning**

When an offence is of a minor nature, the young person has not offended before and no additional concerns were highlighted during the enquiry, a case can be closed via a Police Verbal Warning. This consists of a Police Officer speaking to the young person in the presence of their parent(s), giving a warning and explaining the risk the young person would be putting themselves at were they to offend again.

2. **Police Warning Letter**

The Police Inspector in charge of the YJMU will write to the young person noting that they have been charged with an offence and that they are receiving a formal written warning. Their parent(s) will also receive a letter explaining the reasoning behind the warning and the possible consequences should their child come to Police attention for further offending.

3. **Police Restorative Justice Warning**

This option involves a meeting between the young person and a specially trained Police Officer to discuss the offence. The Officer will advise the young person of the impact of their actions and explain the possible consequences of their actions and of continued offending.

4. **Referral to Partner Agency**

The YJMU can refer young people to a range of key partner agencies who will undertake a programme of work with the young person to address the causes of

their offending behaviour. Agencies include the child's school, Aberdeenshire Council Social Work Services, Scottish Fire and Rescue Service and a number of voluntary services (for example, Barnardos) which cover issues relating to anger management, alcohol / substance abuse and victim awareness. When such a referral is made the young person and their parent(s) will also receive a letter from the YJMU Inspector explaining the referral process.

The YJMU will select the option that is considered most appropriate to address the offence in question. It is *not* the case that young people charged with an offence will automatically receive a Police Verbal Warning for their first offence, a Police Warning Letter for a second offence etc. The YJMU will apply the disposal option that is most appropriate to the level of offence committed and that is most likely to support the young person in avoiding future offending behaviour. In addition, all young people charged with offences must be checked against a list of open cases held by SCRA.

EI Referrals to Partner Agencies:

Assessments of young people who offend help identify the most effective type and intensity of service provision and assist in appropriate action planning. Assessment should take place within the context of social, developmental and psychological needs as set out in the GIRFEC framework. Early and Effective Intervention work may include working with minor offending or anti-social behaviour which has not resulted in a police charge, when an offence is reported, this would then prompt further assessment using ASSET as an assessment tool.

Children's Services Social Work

Referrals to the Social Work Team will usually be when there is already an allocated worker or significant social work involvement. The Multiagency Action Planning (MAAP) process should help identify actions to include in the Young Person's Plan that detail how EI will take place. Children's Services Social Work Teams carry out direct work with young people and their families to identify and address need at the earliest opportunity, ensuring that intervention is timely, proportionate and responsive and aims to prevent the need for a higher degree of intervention at a later stage.

Youth Services Team compliments the work of the Social Work Teams and will work alongside Social Workers to help deliver EI through targeted work.

Barnardo's Aberdeenshire Youth Initiative (BAYI)

Referrals can be made to Barnardo's by a number of agencies including the family and young person. This service is for young people up to the age of 18 who have been involved in offending or are at risk of displaying offending behaviour, the service can contribute to assessments and also provide specific areas of intervention such as anger management.

Single/Joint Report

For Children Under 16 and those aged 16 & 17 on CSOs the most serious offences (murder, rape, treason, sexual offences), firearms offences, Causing Death by Dangerous driving, Road Traffic Offences where a disposal option includes a ban from driving (age 15+ only), and some others i.e. breach of ASBO – must be jointly reported

to the Procurator Fiscal (PF) and Children's Reporter. In other cases the YJMU will either report to the Children's Reporter or the PF.

If jointly reported the two agencies will then discuss who will take the case forward. This may result in the young person being prosecuted through the Court system. However in line with the WSA to youth justice, the preferred option would be for the young person to be dealt with through the Children's Hearings System, where possible.

Report Submitted to the Scottish Children's Reporter Administration (SCRA)

If significant concerns are raised during an enquiry the YJMU can arrange for a report to be submitted to SCRA. If SCRA already have an open case for a young person, any offences must be submitted to the Children's Reporter. For offence grounds, the Children's Hearings System operates on the same evidential standard as the criminal justice system (beyond reasonable doubt) therefore, if there is insufficient evidence, the matter cannot be taken further by the Reporter. If there is sufficient evidence, the Reporter has a duty to examine the child or young person's circumstances to allow them to determine the best course of action for the individual child or young person. This includes obtaining reports from schools, social work or other agencies involved with the child or young person or their family. Following the investigation, the Reporter can make one of a number of decisions, including referring a child or young person to a Hearing. Where there is no requirement for compulsory measures of supervision, children and young people can be dealt with by a variety of options, including: restorative justice, voluntary measures such as tailored programmes to tackle their behaviour. Voluntary support can be offered by the Local Authority or third sector organisations.

Report to the Procurator Fiscal

If an offence involving a young person is to be reported to the Procurator Fiscal, the report from the YJMU will include details of any juvenile offending, any previous diversions from prosecution and any documented wellbeing concerns. This will allow the Procurator Fiscal to see the bigger picture of the young person and so allow them to make a more informed decision in relation to the offending behaviour.

The Procurator Fiscal will consider the information provided by the YJMU and Social Work and will make their own decision regarding what action to take:

- Remittal to a Children's Hearing for Advice or Disposal
- No Further Action
- Diversion
- Direct Fiscal Measure
- Referral to Social Work/Voluntary Agencies
- Prosecution

All cases of criminal behaviour involving 16 and 17 year olds in Scotland that are considered suitable for prosecution are marked centrally by the Procurator Fiscal.

Remittal To A Children's Hearing

- For children Under 16 and not on a Compulsory Supervision Order (CSO) through the Children's Hearing Court **may** remit to a Children's Hearing for disposal or request advice from the Hearing as to the treatment of the child. After receiving advice - Court can dispose of itself **OR** remit to Hearing for disposal.
- For children Under 16 and on a CSO High Court **may** and the Sheriff Court and JP Court **shall** request advice from a Hearing as to the treatment of child. After receiving advice, the Court can dispose of the case itself **OR** Remit to a Hearing for disposal.
- For young people 16-17½ and not on a CSO Court (Sheriff or JP) **may** obtain advice as to the treatment of child from a Hearing. After receiving advice, the Court **may** dispose of the case itself **OR** where the Hearing has advised a remit, the Court may remit to a hearing for disposal. The Sheriff / JP **cannot** remit a case for disposal without first seeking advice. This is the only time when a young person 16+ will be placed on a CSO.

Advice Hearings give advice to Court as to how a young person is dealt with. Court usually continues cases for 3 weeks for advice. Advice hearing arranged within timescale, reports requested by the Reporter and advice from the Hearing is then sent to Court.

Remit Hearings will decide if compulsory measures of Supervision are necessary or not, including those remitted who are aged between 16 and 17½ years. Any existing CSOs will be reviewed at the remit Hearing. If the Court decides to remit to a Hearing for disposal then a Hearing is set within a few weeks (but no set timescales).

With the **Whole Systems Approach**, the Scottish Government anticipate the number of advice hearings and remits from Court to increase.

Children & Families Social Work will prepare a report for the Hearing. If recommending the case be remitted for disposal, the Children's Panel will require:

- The ASSET score;
- Clear and concise plan setting out who will do what and by when;
- What services will be put in place;
- What will be done to manage any potential risk.

Direct Fiscal Measure

This can include a warning letter, compensation offer, fine or a combination offer.

Diversion from Prosecution

Diversion is a formal decision that can be made by the Procurator Fiscal for young people under the age of 18. On receipt of a police report, the Procurator Fiscal can choose to divert the young person to a local social work team or other service provider that has specific expertise in working with young people. When diverted, the young person will undertake a programme and/or is directed to services tailored to their

needs designed to deal with the underlying causes of their offending. This type of intervention keeps young people away from the formal criminal justice process and gives them the opportunity to make positive changes at a crucial time in their lives.

If the Procurator Fiscal decides that the case is suitable for diversion, they will write to the young person to advise that they are being offered assistance from Social Work as an alternative to prosecution.

If the young person does not wish to participate in diversion, they have 14 days to notify the Procurator Fiscal of this. If Criminal Justice Social Work do not hear from the Procurator Fiscal within the 14 day timescale, they will contact the young person to arrange a first appointment.

Criminal Justice Social Work will begin an assessment with the young person to determine whether or not they are suitable for diversion. If at any point during the assessment period, it becomes apparent that the young person's case is not suitable for diversion, Criminal Justice Social Work will notify the Procurator Fiscal immediately, via email. Criminal Justice Social Work must include relevant information as to why a case is not considered suitable for diversion. Failing to respond to letters from Criminal Justice Social Work alone would not deem a young person to be unsuitable for diversion.

If the initial assessment indicates that the young person is suitable for diversion, Criminal Justice Social Work will send the initial assessment report to the Procurator Fiscal and will allocate the case to a Criminal Justice Social Worker. Ideally this will take place within 28 days.

In some cases, it may be appropriate for Barnardos or another service to undertake the diversion work with the young person – in these cases, Criminal Justice Social Work will still retain overall case management responsibility for the case.

When the young person has completed the period of diversion, the final diversion report will be emailed to the Procurator Fiscal – ideally this will be no more than 12 weeks after the date the initial assessment was completed.

The Procurator Fiscal will send the diversion outcome and case disposal letter to young person and will e-mail a copy of the letter to Criminal Justice Social Work and to the Youth Justice Management Unit (the latter is for performance monitoring purposes).

Prosecution

Some offences cannot be dealt with via diversion and must be dealt with by the Court:

- Custody Cases
- Most Road Traffic Offences
- Serious Assaults
- Incidents involving knives

- Most Sexual Offences

Court Support

Aberdeenshire has one dedicated Court Support Worker. All young people who are being prosecuted should be offered court support. The Court Support Worker offers support through:

- Supporting the young person in preparation for and during their appearance in Court.
- Working with court staff to promote alternatives to remand and custody.
- Supporting young people who are working with Social Work as part of Diversion from Prosecution.
- Supporting young people who are already subject to statutory Court Orders or ongoing Court Proceedings.
- Linking in with families and signposting parents or siblings to other services where appropriate.

Care and Risk Management (CARM)

A CARM meeting may be considered in circumstances where a child or young person presents a risk of **serious** harm to others due to their behaviour. The CARM process in Aberdeenshire ensures a transparent, proportionate and rights-based approach which places the child or young person at the centre of decision-making and considers risks and needs holistically. The process does not stand alone from GIRFEC and the single Child's/Young Person's Plan – rather, it ensures that decisions about risk inform the Plan in a meaningful way. Guidance is available on the Aberdeenshire GIRFEC website.

Services

Aberdeenshire Youth Services Team: Linda Lomas, Team Manager 01771 638200

Barnardo's Aberdeenshire Youth Initiative: Melanie Duncan, Team Manager 01224 624090

Children's Reporter (Aberdeenshire): 0300 200 2181

YJMU: Gail Walker, Youth Justice Management Unit Manager 01224 306911

Aberdeenshire Council Employability Service: Carole Balcombe, Team Manager 01261 819343

Activity Agreements: Opportunities for All is the Scottish Government's model for ensuring that every Young Person has an appropriate, relevant, attractive offer of learning made to them, well in advance of their school leaving date.

In circumstances where there is a high probability of a young person entering into a negative destination, they can be offered an Activity Agreement.

An Activity Agreement can be proposed by the young person him/herself, by Social Workers, parents and carers or others involved with the young person, but a Referral should only be made by a professional staff member for and on behalf of the young person.

- If the young person is still at school, the referral must be completed by a member of school staff.
- If the young person has left school, they can be referred by various services, for example:

Skills Development Scotland
Community Learning & Development
Employability Support Services
Social Work
Activity Agreement Commissioned Support Services (third sector)

Aberdeenshire Opportunities for All team Opportunitiesforall@aberdeenshire.gov.uk

Additional Resources

[Preventing Offending: Getting it Right For Young People \(Scottish Government 2015\)](#)

[Reintegration and Transitions - Guidance for Local Authorities, Community Planning Partnerships and Service Providers \(Scottish Government 2011\)](#)

Appendix 1- Process Diagram

