

Out of Trouble

Making Amends: restorative youth justice in Northern Ireland

Jessica Jacobson and Penelope Gibbs



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Foreword

Imprisonment of children should always be a last resort, but the nations of the UK have struggled, and continue to struggle, to achieve this. In its most recent report, the UN Committee on the Rights of the Child expressed concern at the number of under 18 year olds deprived of their liberty and the number on remand in the UK. The Prison Reform Trust (PRT) shares that concern. For the last two years we have been running Out of Trouble, a programme whose aim is to reduce the number of children and young people imprisoned across the UK. This programme is supported by The Diana, Princess of Wales Memorial Fund over five years.

Much of our work so far has been focussed on the overuse of imprisonment for children in England and Wales. Overused it is, but there are signs of hope and areas of good practice. Before the programme started PRT had been encouraged by the new restorative justice system in Northern Ireland. When we heard about early indications of success and of a significant reduction in the number of children sentenced to custody in Northern Ireland, we determined to find out more and to profile that achievement.

There are still problems in Northern Ireland. There are far too many children locked up on remand, children wait too long for trial and looked after children are over-represented in custody. But this report seems to show that political will, good inter-agency working and effective community alternatives, can reduce prison numbers as well as reducing youth crime. Nor is the experience of Northern Ireland an isolated one. Our recent publication, Reducing child imprisonment in England and Wales - lessons from abroad, presents many examples of countries and areas which have successfully reduced prison numbers, and prevented children reoffending. We hope the two publications will inspire policymakers to do the right thing and enable children and young people to get out of trouble.



Penelope Gibbs
Director, Out of Trouble programme

EXECUTIVE SUMMARY

Key Facts

- The Youth Conference Service was introduced in Northern Ireland in 2003 – since then, more than 5,500 referrals have been made to the service.
- There are two types of conference – diversionary, where a young person is referred prior to conviction, and court-ordered, where a young person is referred post-conviction.
- In 2006, the combined reoffending rate for youth conferencing was 37.7% - this compared to 52.1% for community sentences and 70.7% for custodial sentences.
- Between 2003-05, a quarter of all referrals were for violence against the person offences.
- Victims were present in two-thirds of all conferences held in 2008-09 – 89% expressed satisfaction with the conference outcome, and 90% said they would recommend it to a friend.
- The number of children sentenced to immediate custody in Northern Ireland dropped from 139 in 2003 to 89 in 2006.
- In addition, the percentage of convicted young offenders sentenced to custody fell from 10% in 2004 to 7% in 2006, whilst the percentage receiving a youth conference order increased from 1% to 23%.
- The ratio of the 10-17 population in Northern Ireland who were sentenced to custody in 2006 was 1:2265 – in England and Wales the equivalent ratio sentenced to custody in 2006/07 was 1:760.
- Nearly two-thirds of children in the Juvenile Justice Centre (JJC), the main secure facility for children, are on remand.
- Despite a Youth Justice Board commitment to placing restorative justice at the heart of the youth justice system, its use in England and Wales has so far been limited.
- The number of children sentenced to custody in England and Wales more than tripled between 1991-2006.

This report examines recent youth justice reform in Northern Ireland, focussing particularly on the operation and outcomes of the Youth Conference Service, which is part of the Youth Justice Agency of Northern Ireland.

Many of the youth justice reforms in Northern Ireland derive from the Criminal Justice Review of 2000. This led to the youth justice system adopting a statutory aim of protecting the public by preventing offending and reoffending by children, to the introduction of new community sentences and to the setting up of the Youth Conferencing Service.

The service, which takes a restorative justice approach to tackling offending by young people, was established in 2003. Its primary aims are to reduce levels of reoffending and to meet the needs of victims of crime, and early research evidence indicates that it is enjoying some success in these terms. The introduction of youth conferencing appears, moreover, to have contributed to an overall decline in the use of custody for young offenders in Northern Ireland.

Youth conferencing in Northern Ireland

The Youth Justice Agency (YJA) was launched in April 2003 as an agency of the Northern Ireland Office, with the principal aims of reducing youth crime and building confidence in the youth justice system. The agency works with children aged between 10 and 17 who have offended or are at serious risk of offending.

The principles of restorative justice have been placed at the heart of the youth justice system in Northern Ireland as it has evolved since 1998. The system of restorative justice which has been established involves the use of 'youth conferences' at which the offender, victim (or victim representative), professionals and others are brought together to discuss the offence and its repercussions, and to agree on an action plan for the offender. Youth conferences are fully integrated within the criminal justice process. A young person can be referred for a youth conference at one of two stages of the criminal justice process:

- Prior to conviction if, having been charged by the Public Prosecution Service (PPS), the young person admits the offence; in such cases, the referral is undertaken by the PPS, and the conference is known as a diversionary youth conference.
- Following conviction, in which case the conference is known as a court-ordered conference. With certain exceptions, there is a statutory requirement for the court to order a conference for a convicted young person who agrees to participate.

Youth conferences are organised and facilitated by youth conference coordinators – specialist, trained officers of the YJA. At a youth conference, the young person is invited to give an account of the offence and the victim, if present, is encouraged to ask the young person questions about what has been said and how they have been affected by the crime. Others in attendance are also invited to give their views on the crime and its effects. A critical element of the conference is the collaborative development of a youth conference plan which sets out actions to be taken by the young person to make amends for the offence and reduce the likelihood of further offending.

Where a youth conference plan is agreed at the conference, the details of the plan are submitted to the PPS (in cases of diversionary conferences) or court (if it was a court-ordered conference). If the plan is accepted by the PPS or court, its implementation is thereafter monitored by the youth conference coordinator or another member of YJA staff. If the PPS rejects a plan, the case may proceed to prosecution; if the court rejects a plan, it can pass a different sentence in its place.

Impact and effectiveness of youth conferencing

The number of young persons engaged in youth conferencing has grown year on year since the service was launched; over the course of 2007-08, a total of just under 2,000 referrals were made to the service, and 1,350 conference plans were approved by the PPS and courts. Conferences tend to be held within the designated timescales (within 30 days for diversionary conferences and within four weeks for court-ordered conferences), and most result in an agreed conference plan; most plans, in turn, are endorsed by the PPS or courts and thereafter completed by the young person.

Although it is too early to reach definitive conclusions about the effectiveness of youth conferencing, there is ample evidence that victims who attend conferences tend to be satisfied with the process and outcomes, and levels of victim participation are reasonably high. It is difficult to assess the impact of youth conferencing on reoffending rates, but there are some encouraging signs in this regard. The establishment of the Youth Conference Service has contributed to an overall decline in the use of custody for young offenders, and to an increasing rate of diversion of young people out of the formal criminal justice process.

It can be concluded, therefore, that the Youth Conference Service is working well, and makes a highly positive contribution to the delivery of youth justice across Northern Ireland. Existing reviews of the service have concluded that critical to its successful launch and implementation has been the professionalism, commitment and skills of the staff and management of the Youth Conference Service. The creation of the specialist youth conference coordinator role has been particularly important.

One of the principal aims of the YJA is to 'build confidence in youth justice'. Survey findings suggest that attitudes towards the youth conference approach are broadly favourable – although the extent to which this will translate into increased public confidence in the youth justice system is not yet known. Since the launch of youth conferencing in Northern Ireland, the importance of promoting public awareness and positive attitudes has been widely recognised across the service. The result has been that media coverage of youth conferencing has been broadly positive.

Implications for England and Wales

The Youth Justice Board of England and Wales has stated its commitment to 'placing restorative justice at the heart of the youth justice system' (YJB, 2006: 3). The principles and practices of restorative justice feed into many youth justice interventions delivered at both pre- and post-conviction stages across England and Wales. However, the extent of genuinely restorative practices in England and Wales remains somewhat limited. There is no close equivalent to the diversionary youth conference and there is no purely restorative sentence, equivalent to Northern Ireland's youth conference order, available for repeat offenders.

An interesting question is whether it would be feasible and desirable to establish in England and Wales a more integrated and wider-ranging system of restorative justice, along the lines of Northern Ireland's youth conferencing model. Certainly, the results of youth conferencing to date indicate that the implementation of a similar model in England and Wales might well bring benefits – particularly in terms of victim satisfaction and, very possibly, constructive offender engagement. For a jurisdiction that is struggling to contain its prison population – and in which the number of children sentenced to custody more than tripled between 1991 and 2006 – youth conferencing could, moreover, prove a welcome means of reducing the use of custody for young offenders.

1. INTRODUCTION

This report provides an overview of the operation and outcomes of the Youth Conference Service, Youth Justice Agency of Northern Ireland. The service, which takes a restorative justice approach to tackling offending by young people, was established in 2003. Its primary aims are to reduce levels of reoffending and to meet the needs of victims of crime. The introduction of youth conferencing appears, moreover, to have contributed to an overall decline in the use of custody for young offenders in Northern Ireland. This development is of particular interest to the Prison Reform Trust which, with support from The Diana, Princess of Wales Memorial Fund, is running a programme to reduce child and youth imprisonment in all parts of the United Kingdom. Hence the Prison Reform Trust commissioned this study of Northern Ireland's Youth Conference Service.

The study entailed a review of the range of published literature – including evaluations, publicity material and other documentation – on the Youth Conference Service and related initiatives. In addition, the Prison Reform Trust research team carried out a half-day visit to the service, in the course of which they conducted interviews with senior managers.

Background and development of youth conferencing in Northern Ireland

The comprehensive Criminal Justice Review was published in 2000. The review group made 294 recommendations for change across the system, including in youth justice. The government accepted almost all the Review recommendations and proceeded to legislate. The Justice (NI) Act 2002 included the following:

Statutory aim: the youth justice system in Northern Ireland now has a statutory aim enshrined in legislation to protect the public by preventing offending and reoffending by children. A 'child' is defined as being anyone under the age of 18, since the youth justice system was extended to include 17 year olds in 2005.

New community sentences: the 2002 Act also introduced two sentences to provide courts with additional community-based disposals while addressing the needs of the victim. Reparation Orders allow the young person to make reparation, up to a maximum of 24 hours, to the victim (if the victim consents), or to someone else affected by it, or to the community. Community Responsibility Orders, which can be of 20 to 40 hours duration, are delivered in two parts. In the first part the young person receives citizenship education which might include programmes to address such issues as offending behaviour, victim awareness and healthy lifestyle. The second part requires the young person to carry out practical reparative activities suited to their age and capabilities.

Youth conferencing: based on inclusive restorative justice principles, this operates both as an alternative to prosecution or as a court-ordered process and allows children to take responsibility for their actions, gives victims an opportunity to say how they have been affected and results in an agreed plan to redress the harm done.

The Justice (NI) Acts of 2002 and 2004 did not recommend an increase in the age of criminal responsibility or incorporate the UN Convention on the Rights of the Child into primary legislation.

The setting up of the Youth Justice Agency

The Youth Justice Agency (YJA) was launched in April 2003 as an agency of the Northern Ireland Office, with the principal aims of reducing youth crime and building confidence in the youth justice system. The agency works with children aged between 10 and 17 who have offended or are at serious risk of offending (as in England and Wales, the age of criminal responsibility in Northern Ireland is 10), and delivers a range of services including diversionary activities, community-based disposals and custodial services. Within the police, dedicated officers for working with children and young people – youth diversion officers – were appointed, while the Public Prosecution Service

appointed youth ‘champions’.

Restorative justice

The principles of restorative justice have been placed at the heart of the youth justice system in Northern Ireland as it has evolved since 1998. As defined by the UK-wide Restorative Justice Consortium, restorative justice:

...works to resolve conflict and repair harm. It encourages those who have caused harm to acknowledge the impact of what they have done and gives them an opportunity to make reparation. It offers those who have suffered harm the opportunity to have their harm or loss acknowledged and amends made.¹

The restorative justice model contrasts with the traditional criminal justice model of prosecuting offenders in a number of respects, as set out in figure 1 below.

Figure 1: contrasting points of focus of traditional criminal justice and restorative justice approaches

<p>Traditional criminal justice process</p> <ul style="list-style-type: none"> • What laws were broken? • Focus on guilt. • Decides on punishment. • Offender is central. • Adversarial – offender vs state. • Limited inclusion of community. <p>Restorative justice</p> <ul style="list-style-type: none"> • Who has been hurt? • Crime violates people and relationships. • Identifies needs and obligations. • Victim is central. • Encourages dialogue. • Forum for community to be involved in dealing with problems of crime. <p>Derived from McLaughlin (2006)</p>

The youth conference approach

Restorative justice can be implemented in many different ways. In Northern Ireland, the youth justice system opted for a version involving the use of ‘youth conferences’ at which the victim and victim’s supporters (or victim representatives) are brought together with the offender and offender’s supporters in a structured meeting facilitated by professionals. The aim of the conference – at which all participants have the opportunity to speak – is to discuss the offence and its repercussions, and to agree on an action plan for the offender. Youth conferences are fully integrated within the criminal justice process: a young person can be referred for a conference either before conviction (after an admission of guilt to a

prosecutor) or after conviction (see chapter 3). The development of the youth conference model drew on restorative justice programmes implemented in other jurisdictions; the ‘family group conferencing’ model of New Zealand, which was introduced in 1989, was particularly influential.²

The main aims of Northern Ireland’s Youth Conference Service are as follows:

- reparative justice and meeting the needs of victims, so giving them a real place in the youth conference, rather than just regarding it as a means to reform the young person who has offended
- rehabilitative justice, where what is important is the prevention of reoffending by the young person, so the youth conference focuses on offending behaviour

- proportionality, rather than pure retributive justice
- making amends for the harm done, clearly separating the young person who has offended from the offence and focusing on the potential for reintegrating him into the community and on the prevention of reoffending
- repairing relationships which have been damaged or broken by crime
- devolving power to youth conference participants to create the youth conference and the plan [setting out the actions to be taken by the young offender to make amends for the harm he has caused], but requiring subsequent approval for the plan from the court for cases which have gone to court
- encouraging participation by young people who have offended, victims, and significant others in the process.

(YJA Annual Report and Accounts, 2007-8)

The Youth Conference Service was launched, under the auspices of the YJA, in December 2003. Part 4 of the Justice (Northern Ireland) Act 2002 provides its statutory footing, while the Youth Conference Rules (Northern Ireland) 2003 set out the procedures to be followed in delivering the service. Youth conferencing was implemented initially in Greater Belfast; over the following three years its coverage was gradually extended to the whole of Northern Ireland. It has its roots in earlier community initiatives designed to replace brutal paramilitary punishments with more effective restorative measures in which disputes could be mediated.

Structure of the report

This report comprises four chapters. Following this introduction, chapter 2 sets out the details of the scheme's scope and operation. Chapter 3 looks at the effectiveness and outcomes of the service, to

the extent that evidence is available on these issues. Finally, chapter 4 concludes the report by highlighting the key issues to emerge from the study, and briefly considers whether lessons for the youth justice system of England and Wales can be drawn from the Northern Ireland experience of implementing restorative justice.

Over the course of the report, a number of case studies and quotations from youth conference participants are presented in boxes. These derive from existing evaluations of the scheme and from Northern Ireland's Youth Justice Agency.

This study has not encompassed a critical examination of the principles of restorative justice, evidence for its general effectiveness, or the rationales for its wide-scale introduction in Northern Ireland. There is a large body of international research literature on restorative justice and a summary of much of this is provided by Campbell et al (2005).³ For a study of the methods by which restorative justice – and, specifically, Northern Ireland's youth conferencing model – seeks to achieve its goals, the reader is directed to Maruna et al (2007). The starting point of this study is an assumption that the system of restorative justice introduced in Northern Ireland has the potential to enhance the delivery of youth justice; this report provides a description of the system and an assessment of the available evidence of its impact and effectiveness to date.

2. THE PROCESS OF YOUTH CONFERENCING

There are various stages to the youth conference process. First, the young person who committed the offence⁴ is referred for a conference. Secondly, preparation for the conference is undertaken, which includes inviting the victim to participate. The next step is the conference itself. Finally, if a youth conference plan has been agreed at the conference, this must be submitted to the authorities and undertaken by the young person.

Referral

A young person can be referred for a youth conference at one of two stages of the criminal justice process:

- prior to conviction if, having been charged by the Public Prosecution Service (PPS), the young person admits to having committed the offence; in such cases, the referral is undertaken by the PPS, and the conference is known as a diversionary youth conference
- following conviction, in which case the conference is known as a court-ordered conference. A guilty plea is not a precondition for a court-ordered conference.

In both circumstances, a referral can only be made if the young person gives their full consent to participating in a conference. Other criteria for referral are that the young person must be aged between 10 and 17 (initially the upper age limit was 16; this was increased to 17 in September 2005⁵) and must reside in Northern Ireland. To date, the majority of referrals to the Youth Conference Service have been from the courts: 58% of all 5,350 referrals made between 1 January 2004 and 31 December 2008 were court-ordered. However, the balance between court and PPS referrals is shifting: in 2004, just 30% of referrals were from the PPS, whereas in 2008 the PPS made just over half the referrals (52%) (YJA internal monitoring data).

The Justice (Northern Ireland) Act 2002 does not provide guidance on which kinds of cases are suitable for PPS referral for youth conferencing, but 'it was anticipated that conferencing [would] constitute an option for many young people recommended for prosecution' (Campbell et al, 2005: 37). Subsequently, the PPS has issued guidelines on referral for youth conferencing; these point to the need for decisions on prosecution to strike a balance between public interest and the best interests of the child. With respect to court-ordered referrals, the legislation states that:

A court must refer the case of a child who has been found guilty of an offence by or before the court to a youth conference coordinator for him to convene a court-ordered youth conference with respect to the child and the offence (Section 59, 33A (1) of the Justice (Northern Ireland) Act 2002) [emphasis added].

However, the court is not required to refer for youth conferencing if the offence carries a mandatory life sentence, is triable on indictment only in the case of an adult, or is a scheduled offence under Part 7 of the Terrorism Act 2000.⁶ The other exceptions are where the young person does not give his consent to the referral; or if the court proposes to make an absolute or conditional discharge. There is no limit on the number of times to which a young person can be referred for a conference.

The breadth of the referral criteria for youth conferences is such that they are used for a wide array of offence types, and offences of a wide range of seriousness. An analysis of the 362 referrals received by the Youth Conference Service between December 2003 and June 2005 found that 21% of the offences were what could be described as 'minor property-related and other minor offences', 53% 'intermediate offences against person and property', 23% 'serious offences against person and property', and 3% 'very serious violent offences and serious harm to the person' (Campbell et al, 2005). Figure 2 presents a breakdown by offence category of all 5,350 youth conference referrals made between 1 April 2004 and 31 December 2008; here

it can be seen that violence against the person is the largest offence category, accounting for a quarter of all referrals; this is followed by criminal damage (19%), and theft (17%).

Figure 2: offence breakdown of youth conference referrals December 2003 – June 2005

Offence category	% of referrals
Violence against the person	25%
Criminal damage	19%
Theft	17%
Offences against the state	14%
Motoring offences	13%
Burglary	6%
Drug offences	3%
Sexual offences	1%
Robbery	0.5%
Fraud/forgery	0.5%
Other	1%
Total	100%

Source: YJA internal monitoring data

Before the conference

When a youth conference referral is made, a youth conference coordinator – that is, a specialist, trained officer within the Youth Conference Service – undertakes the preparation for the event. This includes meeting with the young person and, if appropriate, his family or appropriate adult, to talk about the conference and what will be expected of him. The coordinator also meets the victim to explain the purpose of the conference and invite him to attend. If the victim does not wish to attend, other forms of participation can be suggested: for example, contributing to the conference by telephone is a possibility, or a representative of the victim might attend. Leaflets on 'preparing for the conference' are available for both the victim and the young person; these set out various questions that the individual can address in advance of the event. (The introductory sections of both leaflets are presented in figure 3 below.) The conference coordinator also arranges for the other relevant parties to attend the conference, while a YJA case

manager takes responsibility for the administration of the case and, along with the coordinator, ensuring that the statutory requirements are met.

Figure 3: 'preparing for the conference' leaflets from the Youth Conference Service

Introductory section of leaflet for the victim

We understand that you have agreed to take part in a youth conference. We appreciate the courage and commitment it takes to do this.

The youth conference is an opportunity:

- to tell people, especially the young person who offended against you, how the offence has affected you and those close to you
- to hear what the young person has to say about the offence and to ask him/her your questions
- to have the young person make amends for what he/she did.

Most people feel nervous about taking part in a youth conference. It takes courage. You may also need support before, during and after the conference.

Introductory section of leaflet for the young person

We understand that you have admitted committing an offence and have agreed to take part in a youth conference. We appreciate the courage and commitment it takes to do the right thing.

The youth conference is an opportunity:

- to tell people what you did and what led up to it
- to hear what the victim thinks and feels about what you did
- to make amends for what you did
- to get support to stay out of trouble
- to put all this behind you.

Most people feel nervous about taking part in a youth conference. It takes courage. You may like to talk to others about what it means and what happens afterwards.

The Youth Conference Rules (Northern Ireland) 2003 require all diversionary conferences to be completed within 30 days of referral, and there is an expectation that court-ordered conferences should be completed within four weeks of the order being made. Data presented in both a Queen's University, Belfast (QUB) evaluation of the Youth Conference Service and a Criminal Justice Inspection report on the service indicate that most conferences were held within the specified time-scales (Campbell et al, 2005; CJNI, 2008). However, both evaluations also found that delays in the overall processing of youth cases – from the time of the offence through the prosecution process – meant that conferences were frequently held long after the offence was committed. For example, in 2007 the average number of days between an incident being reported and the conference being held was 210 – around seven months (CJNI 2008: 28). According to the CJNI report, the delays between offence and conference were increasing, although they note that resolving this problem is not entirely in the hands of the Youth Conference Service.

The Queens University Belfast (QUB) evaluation found that three-quarters of referrals received by the Youth Conference Service from December 2003 to June 2005 successfully resulted in a conference. Of those that did not, most failed to proceed because the young person withdrew their consent. Reasons given for refusing consent included not wanting to discuss the offence in a group, not wanting to meet the victim, and subsequent denial of the offence. In five of the cases in which the young person withdrew consent, this occurred in the course of the conference; in the remaining 42 cases, consent was withdrawn before the conference. According to the CJNI report, in 2006 48 (or 5%) of the 969 referrals made to the Youth Conference Service failed because the young person withdrew their consent.

The conference process

The following must attend a youth conference:

- the young person
- the youth conference coordinator
- an appropriate adult in support of the young person – usually a parent, social worker or another adult chosen by the young person
- a police officer (usually a youth diversion officer).

The following may attend a youth conference:

- the victim or representative of the victim
- friends, family members or other supporters of the victim
- family members of the young person
- the young person's legal advisor
- the supervising officer if the young person is under a court order
- an approved observer
- others approved by the coordinator to assist the victim or the young person.

The conference is opened by the coordinator, who introduces those present, and asks that everyone shows mutual respect. The young person is then asked to give an account of the offence, and the victim, if present, is encouraged to ask the young person questions about what has been said and how they have been affected by the crime. The police officer outlines the facts of the case and the effects of the crime on the community. Others in attendance are also invited to give their views on the crime and how it has affected them.

A critical element of the conference is the collaborative development, by the conference participants, of a youth conference plan which sets out actions to be taken by the young person to make amends for the offence and reduce the likelihood of further offending. A plan can involve any combination of a range of different elements; these are presented in figure 4, while figure 5 shows the content of plans made over the four-year period 2004 to 2008. The most common component of plans were activities (81% of plans had such an element), apology (53%) and reparation (32%) (YJA internal monitoring data). If the participants at a conference, including the young person, are unable to reach agreement on what the plan should include, the case is returned to the PPS or court for further action, as appropriate.

The duration of youth conferences varies widely. According to the CJNI report (2008), in 2006 the duration of conferences ranged from 20 minutes to two hours 45 minutes, with an average length of just over an hour (63 minutes). The victim, but not the young person, is entitled to claim travel expenses and for loss of earnings associated with attendance at the conference.

Figure 4: possible components of a youth conference plan

- Specified activity to address offending eg engagement in mentoring or offender behaviour programme, education or diversionary activity.
- Apology – verbal or written.
- Reparation: that is, doing something for the victim or community to make up for the harm caused.
- Unpaid work for up to 240 hours.
- Restriction: that is, prohibiting the young person from undertaking certain activities or going to certain places; this can entail electronic monitoring.
- Payment of compensation to the victim or a charity.
- Supervision by a social worker or other responsible adult.
- Treatment for alcohol, drug, or mental health problems.

required to complete it, and the matter is not classed as a conviction on their criminal record – although it can be referred to if there are subsequent prosecutions. If the PPS rejects the plan, it must decide whether or not to proceed with a prosecution.

In the case of a court-ordered conference, the youth conference plan is submitted to the court. If the court accepts the plan, the young person is subject to a youth conference order, and this is recorded as a conviction on his criminal record. The court also has the option of amending the plan if this is deemed necessary (the PPS does not have this option with respect to plans agreed at diversionary conferences). If the court rejects the plan, it may pass an alternative sentence in place of a youth conference order. Hence, notwithstanding the statutory obligation on the courts to make youth conference referrals in certain circumstances (see above), the fact that youth conference plans are submitted to the courts for approval means that they are the final authority with respect to the disposal.

The QUB evaluation found that, within the study period of December 2003 to June 2005, all conference plans submitted to the PPS were approved. Sixty-three per cent of plans recommended to the courts were either accepted outright (49%) or passed with amendments (14%) (Campbell et al, 2005).

When a youth conference plan is approved by the PPS or court, its implementation is monitored by the youth conference coordinator or other member of YJA staff. This monitoring usually entails:

- meeting with the young person and his family within one week of the plan’s commencement
- reviewing progress on a regular basis
- agreeing with the family how the young person can be supported in undertaking the plan
- ensuring all conditions of the plan are met.

If difficulties arise, the coordinator can arrange a family group conference at which the coordinator, the young person, his family members and possibly others (including the victim) can discuss ways of helping the young person to fulfil the plan’s requirements and the likely consequences of failing to do so.

Figure 5: content of youth conference plans 2004-2008

Agreed conference plan component	% of plans
Activities	81
Apology	53
Reparation	32
Unpaid work	19
Restrictions	18
Compensation payment	17
Supervision	2
Treatment	2

Source: YJA internal monitoring data

After the conference

Where a youth conference plan is agreed at a diversionary conference, the details of the plan are submitted to the Public Prosecution Service (PPS), which has the option of either accepting or rejecting it. If the plan is accepted, the young person is

The PPS or court is told of a plan's successful completion by the young person. If, on the other hand, the young person fails to complete the plan for any reason, the matter will be referred back to the PPS or court for further action – although the Youth Conference Service has the discretion not to take action on a minor breach. Following referral for non-compliance, the PPS may decide to prosecute the young person, or the court may pass an alternative sentence for the original offence.

Example: conference involving a sympathetic victim

Peter has been charged with shoplifting and common assault and was referred to a youth conference by the Public Prosecution Service. He has come to the conference with his mother, Rhonda; his mentor, Simon; and his key worker, Terry. Gary, the victim of assault, has decided to attend without a supporter.

Following discussion of the offence, the coordinator begins exploring contributory factors and mentions the fact that Peter should have been in school at the time of the offence. Gary asks Peter if he is going to do it again. Peter: 'No, I have been changing my ways and everything.' Gary: 'You remind me a lot of me when I was younger. We come from a similar background, but I made a decision to change. You've come to that point in your life now.'

Gary speaks directly to Peter and appeals for him to change his ways. The coordinator asks Rhonda, Peter's mother, how the offence affected her. Rhonda: 'I was just angry, guilty ... I didn't think he'd do this. He wasn't brought up to do these things.' Peter: 'Don't feel guilty, Rhonda. It's not your fault. You haven't failed.' Peter begins to cry. The coordinator offers a break and Peter, Rhonda and the coordinator leave the room. Gary is sympathetic: 'That poor lad was dumped on by his mates.'

Source: Campbell et al (2005)

Example: youth conference coordinator's description of a conference

... Along with three other people [the 16-year-old young person] had broke into church property, and the premises were flooded and vandalised. The young person was subsequently charged with burglary and criminal damage. He agreed in court to participate in a youth conference.

I met with the young person and his family on a number of occasions to discuss the offence and to encourage them to think about addressing the harm done and how the offender could make amends. The family cooperated fully in the process. I met with the victim, a clergyman representing the particular church organisation. He described how the premises had been damaged and how groups using the building had been impacted, and was prepared to meet with the young person to communicate these feelings.

In conference both parties were able to tell their stories. The young person was remorseful and regretted his decision to enter the premises without permission, and further now realised that his actions had a detrimental affect on other people. He stated that he was sorry and was prepared to make amends for his mistake by way of reparational work. The young person donated a sum of money to a charitable organisation helping to reconstruct people's lives and homes after the Asian Tsunami. In addition he completed ten hours voluntary work with the church, cleaning polishing and painting, supervised by the caretaker. He kept his word as given at the conference and completed all that had been asked of him.

The young person has not reoffended. He has returned to school and will shortly take up vocational training. The victim is positive about the experience, and the caretaker pleased that he was able to not only put a face to the offence, but to put closure on it by working alongside the offender. All parties involved in the restorative conference believed the outcomes to be fair and proportionate to the offence.

Source:

www.youthjusticeagency.cymni.gov.uk/youth_conference_service/articles

3. IMPACT AND EFFECTIVENESS

At the time of writing, the Youth Conference Service has been in existence for exactly five years, for only two of which it has been in operation across the whole of Northern Ireland. It is too early in the life of the service to reach any definitive conclusions about its impact and effectiveness. However, three existing studies – the QUB evaluation conducted in 2004-05, the CJNI inspection carried out in 2007, and Maruna et al’s process evaluation (2007) – provide insight into how the scheme works, and many of its outcomes. Additionally, further insight can be gained from reoffending and sentencing statistics published by the Northern Ireland Office, and data (including internal monitoring data) collated by the Youth Justice Agency itself.

Numbers and outcomes of conferences

The numbers of referrals made to the Youth Conference Service and numbers of youth conference plans approved, over the years 2003/04 to 2007/08, are shown in figure 6. (The table includes both diversionary and court-ordered conferences.) This table demonstrates the rapid increase in take-up of the service over the years since it was launched, although the numbers appear to have flattened off between 2007/08 (when almost 2,000 referrals were made) and 2008/09

(1,620 referrals). According to YJA internal monitoring data, a total of 5,350 referrals were made over the four-year period of 1 January 2004 to 31 December 2008.

Clearly, not all youth conference referrals result in a youth conference plan that is approved by the Public Prosecution Service (PPS) or court. The referral can fail to translate into an approved plan at various stages and for various reasons: the conference might not be held because, for example, the young person withdraws their consent; the conference might be held but no plan agreed by the participants; or a plan might be agreed but subsequently rejected by the PPS or court. For these reasons, the relatively high – and rising – proportions of approved plans, as shown in the third column of figure 6, are striking. Young men made up a large majority - 85% - of the 5,350 young people referred to the Youth Conference Service over the years 2004 to 2008 inclusive. An age breakdown of all young persons referred over this four-year period is presented in figure 7; here it can be seen that just under four-fifths of those referred were between the ages of 15 and 17, while only 3% were aged 12 and under. (It should be noted that those young people over the age of 17 would have been 17 or under at the time they committed the offence.)

Figure 6: youth conference referrals and plans 2003/4 – 2007/8

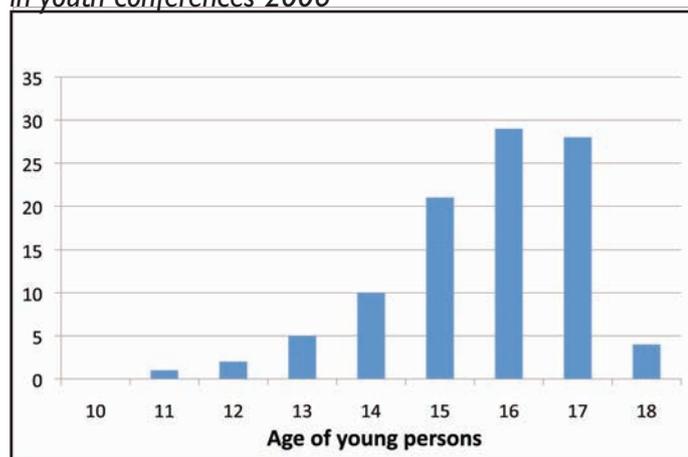
Year(s)	No. referrals	No. plans approved	Plans as % of referrals**
2003/04 – 2004/05*	214	129	60%
2005/06	444	299	67%
2006/07	1,298	880	68%
2007/08	1,932	1,350	70%
2008/09	1,620	1,234	76%

Source: Youth Conference Service caseload data, YJA Annual Reports 2004/5, 2005/6, 2006/7, 2007/8, 2008/9.

* Data available for two-year period only.

**These figures do not reveal the exact percentage of referrals that resulted in plans over the course of the specified year, due to the time lag between referral and plan.

Figure 7: age breakdown of young people engaged in youth conferences 2006



Source: Youth Justice Agency internal monitoring data

The QUB evaluation of the Youth Conference Service found high rates of compliance with conference plans. Just under half of the plans approved during the study period were completed by the end of the period, with completion taking an average of 67 days. Only 6% of the plans had been revoked for non-compliance (Campbell et al, 2005). This general finding is supported by the Criminal Justice Inspection Northern Ireland (CJINI) report (2008), which found that 52% of almost 800 conference plans arising from referrals in 2006 had been completed as of June 2007, while 46% were ongoing. Just 2% of the plans had been revoked by the courts or returned to the PPS for non-compliance.

Offender responses and reoffending

The reduction of reoffending has been one of the main aims of youth conferencing since the service was introduced in Northern Ireland. It is, however, notoriously difficult to identify and measure the contribution of a given criminal justice intervention to any changes in levels of reoffending.

The Northern Ireland Office (Tate and O'Loan, 2009) has published an analysis of proven, one-year reoffending levels among 10 to 17-year-olds released from custody and given non-custodial orders in 2006. This found the overall one-year reoffending rate for the 2006 youth cohort to be 41.8%. The figure for those released from custody is 70.7%, compared to 52.1% for community-based sanctions (the rate for all non-custodial disposals is 40.7%). Youth conferencing is associated with a lower level of reoffending than other community-based disposals, with a reoffending rate of 37.7%, which itself can be broken down into a figure of 47.4% for court-ordered conferences and a substantially lower figure of 28.3% for diversionary conferences.⁷ The full breakdown of reoffending rates by disposal is presented in figure 8 below. The reoffending figures for the 2006 youth cohort paint an encouraging picture of the impact of

Figure 8: one-year reoffending rates, by disposal, of 2006 youth cohort

Baseline disposal	No. reoffending	Total in cohort	Reoffending rate (%)*
Immediate custody	29	41	70.7%
Suspended custody	0	0	-
Community-based ^{**}	138	265	52.1%
Fine	51	178	28.7%
Conditional discharge	60	174	34.5%
Bound over	31	35	-
Other	7	20	-
Court-ordered youth conference	102	215	47.4%
Diversionary youth conference	63	223	28.3%
All conferences	165	438	37.7%
ALL DISPOSALS	481	1,151	41.8%

Source: NIO reoffending statistics, Table 1 (Tate and O'Loan, 2009).

*Reoffending rates have not been calculated for some sub-sets because of the small numbers.

**Includes attendance centre order, combination order, probation order, community service order, and community responsibility order.

youth conferencing on reoffending – with diversionary youth conferences, in particular, being associated with a comparatively low reoffending rate. However, these findings must be treated with caution given the small scale of the analysis. A more thorough-going analysis would entail controlling for variables other than disposal (such as offence type and prior convictions) that are likely to affect reoffending, but the relatively small numbers of people passing through Northern Ireland's youth justice system limit the scope for such an approach.

As noted by Campbell et al (2005), it is often argued that young offenders who feel they have been treated fairly by the criminal justice system are more likely to respect the law in future. Young people's perspectives on youth conferencing seem largely positive, according to internal reviews of the service. In 2009, for example, the YJA reported that 93% of young people were satisfied with conference outcomes, and that 90% would recommend engaging in a conference to others (YJA, 2009).

The QUB evaluation found high levels of satisfaction with the conference process among young persons, although most had found it to be a challenging experience, which provoked some nervousness or discomfort. Nevertheless, they felt that the conference provided an opportunity to express themselves and to have their own perspective on events recognised. Most young persons took responsibility for their actions, displayed a degree of shame and remorse and, in the large majority of cases, voiced an apology. Generally, the young people engaged with the other conference participants in the process of designing the conference plan, and perceived the plan to be fair and proportionate. Lack of engagement in the conference process was usually a function of embarrassment, nervousness, difficulty in recalling the offence or – just occasionally – defiance (Campbell et al, 2005).

Among 26 young persons interviewed by Maruna et al for their process evaluation, views of youth

conferencing were likewise broadly positive, and most of the interviewees had avoided criminal justice involvement since their participation in the conference.⁸ Maruna et al report that:

Numerous interviewees said they first recognised that what they had done was wrong in the conference itself. This recognition of wrongdoing consistently led to an experience described by interviewees as a sense of 'shame'. Still, most desisting interviewees were able to hold on to a sense of a 'good core self' inside of them despite the mistakes they had made. Participant descriptions of the conferencing process were consistent across the interviewees. Successful conferences appeared to involve initial trepidation in the anticipation of the conference, followed by relief and a sense of resolution. A very consistent account across the various interviews was that the anticipation of the conference was routinely much more frightening than the actual conference experience (2007: 2).

Examples: young persons' comparisons of court and conference experiences

It's far better than court – you get to meet everyone and say sorry. It's brilliant.

Do a conference. It's better than a judge shouting at you and you thinking, 'F-- off I'll do it again,' 'cos they are punishing you instead of helping you.

Aye, 'cos it makes you feel better. 'Cos you get to say sorry but probably feel better saying it to their face.

Source: Campbell et al (2005)

Examples: young persons' descriptions of conference experiences

And so what is the most difficult thing about the whole conference?

Having to listen to that person's story. How they were affected. Probably for me. You know. Not nice. But it's asking them how they feel and you have to listen to it.

Not nice? Like when you say not nice, do you mean like it made you angry?

No. Sad really. Like I'm upset with what I've done and wish you could take it back. Wish I could change time.

Well, I'm glad [the conference is] over, like. But it was actually better than you know if I'd went to court and all. Then, it would have been, the way I look at it, I'd have probably just thought 'It wasn't my fault and all'. But, like, I know it was my fault and all. And like the whole family were saying it. But you know what I mean? It helped me how to [be able to admit] that like. So it did.

It was scary. Even the second [conference] was scary.

Why do you think it felt scary?

Because you don't know what they're going to do, if they're going to be angry or, you know, sad or whatever.

...And after the conference what did you think about it then, what were the victims' reactions like in the conferences?

They were alright, calm and even nice like.

Source: Maruna et al (2007)

Victim participation and satisfaction

Alongside the reduction of reoffending, meeting the needs of victims is another key aim of the Youth Conference Service. Conferences can go ahead in the absence of a victim, but victim involvement is generally seen as a highly valuable aspect of the process since restorative justice work, by definition, is about confronting the offender with the harm they have caused and encouraging them to make amends – directly or

indirectly – for that harm. The role of the victim (or representative of the organisation or community that has been harmed) in describing the impact of the offence and reflecting on appropriate reparation can thus be critical.

There has been a significant level of victim participation in youth conferences: according to the CJNI inspection report (2008), a victim was present in 67% of 775 conferences held in 2006 – which is higher than in restorative justice initiatives in other jurisdictions. The equivalent figure for the year 2008/09 is reported by the YJA Annual Report (2009) to be 66%. Victims who attend conferences vary in their perspectives on the offence: of the attending victims in 2006, 38% were personal victims of the crime; 28% were victim representatives (usually representatives of corporate or public bodies); 28% 'general victims' providing a broad view on the impact of an offence which had no direct victim; and 6% representatives of communities harmed by the offence (CJNI, 2008).

Victims have generally viewed their experience of conference participation in a positive light. The QUB evaluation found that most victims were satisfied with the conferences in which they participated, felt that their views were taken seriously, and regarded the conference outcomes as fair. As the report points out, this would seem to contrast sharply with most victims' experiences of the criminal justice process which, according to the research literature, tends to exacerbate feelings of victimisation. It is unsurprising, therefore, that most of the victims in the evaluation said that they preferred the experience of participating in a conference to attending court (Campbell et al, 2005). Victims surveyed for the CJNI inspection (2008) also largely reported feeling positive about the conference process. Confirming these encouraging findings on victims' experiences, victim satisfaction surveys conducted in 2008/09 found that 89% of victims expressed satisfaction with conference outcomes, with 90% saying that they would recommend a conference to another victim (cited in YJA, 2009). The corresponding figures for 2007/08 were 93% and 93% (cited in YJA, 2008a, 2008b). Comments from victims surveyed in 2007/08 included:

[I am] pleased with being involved in the process

Relieved and satisfied, I got to have my say

[The best thing about the conference was] having the opportunity to see the young person being real and showing genuine emotion and being sorry.

Examples: comments from personal victims in attendance at conferences

I know you were messing around, but you hurt me. I felt sick. I went to the office and told them, but I said I didn't want anything done. I was sick and light headed. I go around [the area] all the time and I'd be worried in case you go near me. I don't want you to go near me. You can say hello, but nothing else. Don't hurt me again. I don't want you punished.

After it happened I wouldn't go to school 'cos I was terrified of you. When I saw you going into school I ran away. I was terrified. I was shaking. You hurt me.

I was working in a club to get extra money. It was my first car. Took me three years to save up for it [describes damage to car] off the road for five-six days. It took me two buses to get to work. Frustrating. Not the worst thing that could happen, but I was pissed off. I'm glad you are here, that you are owning up and facing me face to face. You are due respect for that. It is difficult to put into words how pissed off I was that night and when I got the bill a few weeks later.

Source: Campbell et al (2005)

Public confidence in youth justice

The Youth Justice Agency describes its principal aims as being 'to reduce youth crime and to build confidence in the youth justice system'.⁹ It is

hoped that the Youth Conference Service can contribute to the achievement of the aim of building confidence.

Certainly, building confidence in youth justice in Northern Ireland is unlikely to be an easy or straightforward task. Levels of trust in the youth justice system have traditionally been low. Given its departure from the traditional model of the criminal justice process, it might be expected that the restorative justice approach of the Youth Conference Service would meet some resistance. It is interesting to note the public's responses to the question of what should be the top priority for the criminal justice system, posed as part of the 2003/04 Northern Ireland Crime Survey. The vast majority of respondents considered the main priority to be 'bringing those who commit crimes to justice' (58%), while 20% identified 'reduce crime' as the main priority, and just 5% 'meeting the needs of victims of crime' (NIO, 2006). Youth conferencing could be described as a system of bringing young offenders to justice, but it may not meet most expectations of what this process entails; moreover, its stated aims of reducing reoffending and meeting victims' needs may have less resonance for the general public.

Nevertheless, evidence of favourable attitudes towards the youth conference approach emerged from an independent Northern Ireland Statistics and Research Agency (NISRA) Omnibus Survey conducted in September 2006, which found that 69% of respondents believed this to be an appropriate method of dealing with young offenders (cited by YJA, 2007). The extent to which favourable attitudes such as these will translate into increased public confidence in the youth justice system is not yet known. Baseline data on public confidence in the youth justice system have been established by the Omnibus survey of January 2008, which found a general level of confidence of 41% (cited by YJA, 2008). A relatively modest target of increasing the level of confidence from 41 to 45% has been set for the year 2008-09. To assess the extent to which the Youth Conference Service contributes to any increase in confidence over the years ahead would require regular monitoring of public awareness of and attitudes to the service.

Since the launch of youth conferencing in Northern Ireland, the importance of promoting public awareness and positive attitudes has been widely recognised across the service. A variety of activities to this end have been undertaken, including regular work with the media – and particularly the local press. For example, information about the service is regularly disseminated to the media, and journalists are encouraged to sit in on conferences as observers, with the permission of young persons and victims. The result has been that media coverage of youth conferencing has been broadly positive, despite the potential for criticisms – especially from the tabloid press – of the approach for being ‘soft’ on offenders since it departs from the traditional criminal justice model of prosecution and sentencing.¹⁰ Engagement in awareness-raising is explicitly expected of conference coordinators who, for example, deliver talks in schools about the service, and each local area is assigned a target number of awareness-raising events. The public engagement work of the Youth Conference Service falls within the broader communications strategy of the YJA, which comprises a range of events and activities aimed at increasing awareness of the agency and wider criminal justice system.

Example: young person’s account of his parents’ and grandmother’s experiences of the conference

Well they couldn't believe it. They said they were really upset. You know. Because they kept saying. They kept thinking they've got the wrong person. You know [our son] wouldn't do this. You know? And that hurt me because they lost trust in me. You know. They could trust me. And they could tell me. You know. Their wee boy who knows right from wrong. Things like that there and that hurt a lot because you know I've hurt them. Because they thought they knew me and they didn't. You see what I mean? And that hurt them. So it hurts me because it hurt them and er...there was obviously a big discussion when I went up there for the weekend.

Source: Maruna et al (2007)

Impact on prosecution and custody rates

The stated aims of the Youth Conference Service, as set out on page 10, do not include the aim of increasing the proportion of young offenders who are diverted out of the criminal justice system after charge but before court. Nor do they include the aim of reducing the use of custody for those young offenders who are prosecuted and convicted. However, the structure of the youth conferencing model – with its diversionary element and the statutory obligation on courts to make youth conference orders, subject to certain conditions – is such that its introduction was bound to lead directly both to more diversion and less use of custody. Both these trends, moreover, would likely be seen as positive developments by most youth justice practitioners and penal reformers.

With respect to its impact on the prosecution rate, figure 9, below, indicates that the expanding use of youth conferencing over years 2004/05 to 2006/07 has indeed been associated with increasing numbers of suspects being diverted out of the criminal justice process after charge but before conviction. The precise impact of youth conferencing on prosecution rates is, however, difficult to assess in the absence of more detail about the cases. The CJNI report in which these figures are presented makes the point that a greater decline in the prosecution rate might have been expected, arguing that the figure of almost 30% of suspects charged to court is ‘high ... for a jurisdiction that has a youth conferencing approach as its core approach to youth offending’ (2008: 6). It remains to be seen if, with the continuing growth of youth conferencing in 2007/08, the prosecution rate has by now declined to well below 30%.

Figures on sentencing reveal a relationship between youth conferencing and reduced use of custody. Figure 10 shows that the percentage of convicted young offenders sentenced to custody has declined from 10% in 2004 to 7% in 2006, while the percentage receiving youth conference orders increased rapidly from 1% to 23%.

Figure 10 indicates that use of the youth

Figure 9: Prosecutions and other outcomes following charge 2004/05 - 2006/07

Outcome	% of youth suspects charged		
	2004/05	2005/06	2006/07
Indictable prosecution	1%	1%	1%
Summary prosecution	39%	38%	29%
Caution	14%	18%	16%
Informed warning	19%	16%	18%
Youth conference	5%	6%	9%
No prosecution	22%	21%	28%

Source: CJNI (2008), Table 1

conference order has expanded at the expense of both non-custodial and custodial disposals – as would be expected, given its applicability to relatively minor as well as more serious offences. The YJA Annual Report for 2008/09 notes that the youth conference order accounted for around 50% of all court disposals over the course of that year (YJA, 2009).

The decline in numbers sentenced to custody is even more marked when viewed over a ten year period. In 1996, 296 children in Northern Ireland were sentenced to custody, compared to 89 in 2006, representing a threefold decrease over a decade. Whilst the numbers in custody were already in decline at the introduction of the youth conferencing system, the reforms seem to have

accelerated this trend [see appendix 1 for more detail on the number sentenced to custody].

As figure 10 clearly shows, the total number of young offenders convicted by the courts has also declined in recent years, continuing a marked longer-term trend. In 1996, as many as 1,950 young offenders were sentenced, compared to 1,588 in 2004 and 1,273 in 2006. This means, for example, that the fall in the percentage of young offenders sentenced to custody from 10% to 7% masks a larger fall in absolute numbers from 152 to 89. It is clear, therefore, that various other factors, in addition to the availability of new sentencing options, have an impact on the numbers of young people in Northern Ireland who are incarcerated.

Figure 10: Sentencing of young offenders 2003-2006

Sentence	2003		2004		2005		2006	
	No.	%	No.	%	No.	%	No.	%
Immediate custody	139	9%	152	10%	144	10%	89	7%
Youth conference order	0	0%	21	1%	72	5%	289	23%
Suspended custody	64	4%	85	5%	72	5%	32	3%
Community-based*	490	31%	497	32%	443	31%	369	28%
Fine	391	25%	401	25%	348	24%	243	19%
Bound over**	100	6%	72	5%	57	4%	38	3%
Absolute & conditional discharge	383	23%	346	21%	312	21%	210	16%
Other	21	1%	14	1%	7	0%	3	0%
Total	1,588	99%	1,588	100%	1,455	100%	1,273	99%

Source: NIO sentencing statistics, Table 3 (Campbell and Wilson, 2008)

*Includes attendance centre order, combination order, probation/supervision order, community service order, and community responsibility order.

**Referred to in NIO table as 'recognizance'.

Example: conference without a victim

Peter has been referred to youth conference by the court for the offence of common assault. He is attending the conference with his mother and father, Rose and Steven. The victim is unable to attend, but is happy that the conference proceeds without him and has prepared some questions for the coordinator to ask Peter. Peter has engaged well in the conference, has shown remorse and has given a full account of what happened from his point of view.

The coordinator explains the victim's physical hurt, time off work, loss of pay and having to stay in the police station until 4am. They also speak of the emotional effect and explain how it felt to see their friend also getting assaulted. The coordinator reads out one of the victim's questions: 'What gives you the right to attack someone you don't know?' Peter: 'There is no right ... we were just being a-holes.'

In their statement the victim explains that the mobile phone that was stolen that night was a present from his girlfriend. Peter nods. The coordinator asks Peter if he understands. Peter: 'Yes, that he is shocked. It's not right.' The coordinator goes on to explain that the victim still has the incident in mind when he is in the area and that he hopes it will not happen again, but would like reassurance. The coordinator again asks Peter if he understands: 'Yeah, he has been hurt... losing money. I regret it like. I'm feeling sorry to them for that there happening.' ...

After the conference, in interview, Peter shows further remorse: 'I regret ever even doing that - it's my stupidity.' He explains that he would have liked to have met the victim: 'I wish the victim had have been down - to try and express to him my regret.'

Source: Campbell et al (2005)

Remand

While agencies in Northern Ireland have made great strides in reducing the numbers of children sentenced to custody, numbers on remand remain high: in 2007/08, for example, 260 young people were admitted to the Juvenile Justice Centre on remand, and the average remand population over the year was 22 (YJA, 2008a). The remand figures were somewhat lower the following year – at 195 admissions and an average population of 17 (YJA, 2009). But this still means that of all children in the Centre, nearly two thirds are on remand. (See appendix 2 for the average annual remand population 2000-2008).

It is not clear why the remand population should be so much higher than sentenced, particularly given that bail support and bail fostering schemes do exist. The length of time children spend waiting for their cases to come to trial may be contributing to the problem.

In her evidence to the Joint Committee on Human Rights (17 Feb 2009), Patricia Lewsley, the Northern Ireland Commissioner for Children and Young People (NICCY) expressed concern about the number of children on remand and wrote:

There needs to be appropriate alternatives to holding children on remand. Children who are held on remand should be accommodated separately from those who have been prosecuted as committing an offence. Currently children who have been held on remand and subsequently prosecuted do not have their time on remand recognised as part of their sentence.

Convery and Moore¹¹ conducted primary research with staff and children in the Juvenile Justice Centre in 2006 into the protection of children's rights in custody, focussing on the issue of remand. At that time three quarters of the children in the centre were there on remand,

some for relatively minor offences, most of whom did not subsequently receive custodial sentences. JJC staff and children considered that custody was over used:

There's still too many coming in to custody that shouldn't. It's a lot about support accommodation. (Staff)

The judge had me remanded because they can't get me a place. (Child)

Over half the children in custody had been in care and living in children's homes:

He was in and out of the [children's home] consistently...He's in for nuisance offences...he has serious learning difficulties and there's a concern that this may lead to serious harm. (Staff)

The latest inspection of the Juvenile Justice Centre highlights the continuing over-use of imprisonment for children who were:

...neither serious nor persistent offenders. They were troubled children whose JJC placements often resulted from benign intent on the part of courts or police. When unsure about how to deal with them, they were placed in custody as much for their own safety as in response to offending behaviour. Such placements breach international safeguards, and inappropriate use of custody for children remains a more pronounced problem in Northern Ireland than elsewhere in the UK.¹²

The inspectors were particularly concerned by the number of children admitted to the centre as PACE placements: 48% of admissions were PACE placements (to ensure that children are held securely pending a court appearance) and nearly half of these were subsequently released at court, 'which calls into question the value of placing them in custody in the first instance'.

This report does not analyse the reasons for the over-use of custody for remand and PACE placements. The Prison Reform Trust will examine this in more detail and publish separately on the subject. There may well be scope for other agencies concerned with health and welfare to adopt restorative measures as a form of early intervention to prevent young people getting into further trouble and being drawn into the justice system.

4. DISCUSSION

The reform of Northern Ireland's youth justice system, which followed the signing of the Good Friday Agreement in April 1998, resulted in the establishment of the Youth Conference Service. This placed restorative justice at the heart of the youth justice system, fully integrated within the prosecution and sentencing processes. The number of young persons engaged in youth conferencing has grown year on year since the service was launched; over the course of 2007-08, a total of just under 2,000 referrals were made to the service, and 1,350 conference plans were approved by the Public Prosecution Service and courts. Conferences tend to be held within the designated timescales (wider delays within the justice system notwithstanding) and most result in an agreed conference plan; most plans, in turn, are endorsed by the Public Prosecution Service or courts and thereafter completed by the young person.

Although it is too early to reach definitive conclusions about the effectiveness of youth conferencing, there is ample evidence that victims who attend conferences tend to be satisfied with the process and outcomes, and levels of victim participation are reasonably high. It is difficult to assess fully the impact of youth conferencing on reoffending rates, but there are encouraging signs in this regard. The establishment of the Youth Conference Service has contributed to an overall decline in the use of custody for young offenders, and to an increasing rate of diversion of young people out of the formal criminal justice process.

It can be concluded, therefore, that the Youth Conference Service is working well, and makes a highly positive contribution to the delivery of youth justice across Northern Ireland. This chapter briefly discusses some of the strengths of the scheme's implementation, and some of the continuing challenges encountered by the service. This is followed by a consideration of whether there are lessons to be learnt from Northern Ireland's experience of youth conferencing for the youth justice system of England and Wales.

Implementation of youth conferencing: strengths and continuing challenges

Both the Criminal Justice Inspection Northern Ireland and Queens University, Belfast reports observe that the professionalism, commitment and skills of the staff and management of the Youth Conference Service have been critical to its successful launch and implementation. Clearly, the creation of the specialist youth conference coordinator role has been particularly important; the Queens University, Belfast evaluation found that a large majority of conference participants felt that they had been well prepared for the conference by the coordinator, and found him or her to be highly skilled at facilitating the event (Campbell, 2005). Conference coordinators undertake a training course over a 12-month period which is delivered by the University of Ulster and leads to a certificate in restorative practices; some also advance to diploma level. All coordinators must complete part of the certificate course before convening their first youth conference. It has been suggested that further training and additional support may be required to help them deal with cases of a particularly sensitive nature, such as those involving sex offences (CJINI, 2008).

The risk of over-burdening conference coordinators, given their ever-increasing workload, has also been highlighted. A particular concern is that their capacity to monitor conference plans may be compromised if their caseloads become too great. More generally, the CJINI report notes that an annual rate of 2,000 referrals to the Youth Conference Service will not be sustainable without higher levels of resourcing of the service: at the time the inspection was carried out, it was already operating at the limits of its capacity. The Youth Justice Agency has reconfigured its business in order to delegate the role of supervising youth conference plans to additional Youth Justice Agency staff.

Effective implementation of the service depends not simply on the quality of its own staff and adequate resourcing, but also on co-ordination with other services and agencies. To a large extent, inter-agency co-operation between the Youth

Conference Service and other criminal justice agencies, such as the Public Prosecution Service, Court Service and Police Service of Northern Ireland (PSNI), has been good. As discussed in the Criminal Justice Inspection Northern Ireland report, the service has also successfully built working relationships with a range of community-based organisations that are able to offer programmes and activities for young persons under conference plans. The Criminal Justice Inspection Northern Ireland inspection also found, however, some strains in the relationship between the Youth Conference Service and the Probation Board of Northern Ireland, partly because of the inevitable blurring of boundaries between the work carried out by the two services with respect to youth cases.¹³ Within the Youth Justice Agency, there have also been some tensions between the Youth Conference Service and the YJA's community service directorate, reflecting their differing approaches to tackling youth offending (the responsibilities of the latter include the delivery of community-based sentences and certain components of youth conference plans). The CJNI report concludes, therefore, that there remains a need to develop 'a more closely integrated system-wide approach to youth offending ... that has restorative justice at its core' (2008: 18).

The role of the police within youth conferencing may need further consideration. The Youth Conference Service has worked closely and effectively with youth diversion officers within the PSNI (CJNI). Maruna et al point out, however, that the attendance of police officers at youth conferences can sometimes be counter-productive, where young persons have deeply engrained hostility towards, and mistrust of, the police. They argue that, in contrast, the presence of young person 'supporters' – such as their own family members or even, possibly, former participants in youth conferences – can be more constructive:

Young people who felt that there were others at the conference who could stand up for them and defend their reputation were most likely to find the experience positive and memorable. Those without such supporters harboured resentments and negative memories. Additionally, when

shaming was delivered by those whom the young person respected it was far more effective than the 'lectures' delivered by persons the young people did not know or care about (Maruna et al, 2007: 64).

Another key issue raised by the existing studies of the Youth Conference Service is that of the appropriateness of referrals to the service. In most cases, it would appear that referrals are indeed appropriate; but in a minority of cases, referrals are made for very minor issues that do not necessarily warrant the investment of time and resources associated with youth conferencing. Moreover, as noted by Maruna et al, where a conference is regarded by the young person himself as a disproportionate response to an insignificant matter, this can have negative repercussions: 'those who participated in conferences for what they perceived to be minor or 'harmless' offences were the most likely to retain a sense of resentment and anger about the conference' (2007: 60). In addition, with respect to very minor property crimes, the appropriateness and utility of repeatedly referring the more persistent offenders for youth conferences has been questioned by some stakeholders (CJNI, 2008).

Finally, while levels of victim participation in youth conferences are high (and higher than levels in most restorative justice schemes in other jurisdictions), they are not quite at target levels. It may thus be necessary to devise and implement new methods of encouraging victim participation, especially since the research evidence on restorative conferencing demonstrates that the presence of an actual victim – rather than a hypothetical or stand-in victim – has a positive impact on outcomes (Maruna et al, 2007). In practice, as recognised by Campbell et al (2005), it is not possible to have a victim or even a victim representative in attendance at all youth conferences, but efforts should be made to engage victims wherever possible. A related consideration is that where an offence has no direct victim(s) (for example, a drugs offence), the structure and language of the conference may need to be amended to take this into account, as the conferencing process tends to be oriented around the concept of victim and offender (Campbell et al, 2005).

Implications for England and Wales

The Youth Justice Board of England and Wales has stated its commitment to ‘placing restorative justice at the heart of the youth justice system’ (YJB, 2006: 3). The principles and practices of restorative justice feed into a wide range of youth justice interventions delivered at both pre- and post-conviction stages across England and Wales.¹⁴ For example, the sentence of referral order, which was introduced in 2002, is essentially a restorative disposal, available – and in certain circumstances mandatory – for any first-time offender who pleads guilty.¹⁵ The referral order entails referral to a youth offender panel comprising the offender and his parents/carers, two community-based volunteers, a youth offending team representative and, where appropriate, the victim. The panel agrees a ‘contract’ specifying activities to be undertaken by the young offender to repair the harm caused by the offence and tackle his offending behaviour.

In the last year some extensions in the statutory use of restorative justice for young offenders have been introduced:

- Under the Criminal Justice and Immigration Act 2008, an offender with one prior conviction who pleads guilty can receive a referral order if they have not previously had one; a referral order can also be used twice for the same offender in exceptional circumstances.
- The youth restorative disposal is being piloted in eight areas. This is a pre-court disposal which gives specially trained police officers and police community support officers on-the-spot discretion to hold young people who have committed certain minor offences to account. It is only possible to use a youth restorative disposal for a first offence.

However, notwithstanding the commitment of the government and the Youth Justice Board to restorative justice, the extent of genuinely restorative practices in England and Wales remains somewhat limited. There is no close equivalent to the diversionary youth conference and there is no

purely restorative sentence, equivalent to Northern Ireland’s youth conference order, available for repeat offenders. The referral order can only be used in limited circumstances and it is still unpopular with many magistrates and district judges.¹⁶ Additionally, while the referral order is based on restorative principles, in practice the level of victim attendance at youth offender panels is low¹⁷ – probably reflecting, at least in part, the inadequate resourcing, and generally low profile, of victim-oriented work within the youth justice system. There are very few dedicated restorative justice practitioners in England and Wales and youth offending team staff who manage referral panels have much less training than their Northern Ireland counterparts. In short, restorative justice is at present less central to, and less integrated within, the youth justice system of England and Wales than in Northern Ireland.

An interesting question is whether it would be feasible and desirable to establish in England and Wales a more integrated and wider-ranging system of restorative justice, along the lines of Northern Ireland’s youth conferencing model. Certainly, the results of youth conferencing, as described over the course of this report, indicate that the implementation of a similar model in England and Wales might well bring benefits – particularly in terms of victim satisfaction and, very possibly, constructive offender engagement. For a jurisdiction that is struggling to contain its prison population – and in which the number of children sentenced to custody more than tripled between 1991 and 2006 (PRT, 2008) – youth conferencing could, moreover, prove a welcome means of reducing the use of custody for children.

Clearly, adapting the Northern Irish model of youth conferencing to the English and Welsh context would pose a number of challenges. Perhaps the greatest and most obvious challenge lies in the fact that England and Wales is a far larger jurisdiction than Northern Ireland. The population of England and Wales, at around 54 million, is 30 times that of Northern Ireland. With the much greater population size comes a much larger youth justice system, and a much greater complexity of agencies and partnerships (and associated budgetary structures and arrangements) in relation to which any new system

of restorative justice would have to be devised and implemented.

If any far-reaching change is to be made to the youth justice system of England and Wales, strong political will and leadership will be required to see through the process. In Northern Ireland, the establishment of a largely new system of government in the wake of the Belfast Agreement of 1998 provided the opportunity for a radical re-assessment of existing structures of criminal justice, and the consequent implementation of a programme of change. Similar opportunities for new and fresh thinking about youth justice and criminal justice do not often present themselves in England and Wales. Indeed, policy debate on criminal justice in this jurisdiction has been severely hamstrung in recent years by a punitive political climate, and by a populist media that has vociferously criticised existing policy and practice as too lenient. However, the current review of the work of the Youth Justice Board, combined with economic pressures, may lead the system in a more effective direction.

Nevertheless, despite the assumptions made by politicians and the media about society's general punitiveness, the public may have an appetite for approaches to youth crime that depart from the traditional criminal justice model. A survey commissioned by the Prison Reform Trust, for example, has found that members of the public generally believe non-custodial sentences to be more effective than custodial sentences for tackling non-violent offending in children and young people (PRT, 2008). In Northern Ireland, there appears to be a high level of public support for restorative justice as a method of dealing with young offenders, and the Youth Conference Service had made efforts to cultivate this support by actively engaging with the media and wider public. Effective public engagement may be critical to the success of any attempt to expand the role of restorative justice within the youth justice system of England and Wales.

Example: young person's account of vocational training undertaken as part of his conference plan (young person was previously a persistent offender)

[For my conference plan] I had to build a table. Like with [a woodwork course]. I started going like when I was fourteen. I'm still there. I was there [as part of my conference plan] and I stayed on there 'cos I liked it. I stayed on. ... I did woodwork and I built the table. And that was wood staining and all. ... And obviously just like I stayed on. I built two plant pots. A dartboard. A table and that kind of thing.

Where did that go? All those things you made.

I gave the two plant pots to my ma. The dartboard case for me. And the table, I donated it to [named] charity. And like so that's why. Where I'm like getting the joinery from because I like staining the wood then sort of helped with me as well. With job [skills] like. Because that's what I want to do now. I really wanna do joinery now. So it was useful.

... So you actually think that like your conference plan is one of your high points in your life?

... There's nothing really else to do in my life. Because obviously where I live there's nothing to do. Apart from the weekends and you go out and raise hell and drink. But it's not really a high point like. That's just something, something that you'd do. All this action plan stuff it's giving me something [else] to do like. Because every Tuesday I have to go down and see [the workshop].. ... [and now] I know. I know what I'm gonna do: joinery. I'm dead set on now doing joinery like. And I wouldn't even have thought of doing joinery before the thing [conference plan]. Before I started building the table and all. Because it's, it's interesting like where you start with something and then you just make it into a table. And it's like stuff that I've done like there's some cracking stuff I've made out of it like. It's good.

Source: Maruna et al (2007)

5. APPENDICES

Appendix 1:

Number of 10 to 17 year olds sentenced to custody 1996 - 2006

Sentence	Number of persons		
	1996	2001	2006
Prison	2	29	0
Custody Probation	-	-	9
Young Offenders Centre	149	46	45
Training School Order	145	-	-
Juvenile Justice Centre Order	-	72	35
Total immediate custody	296	147	89

Source: Youth Justice Policy Unit, Northern Ireland Office

Appendix 2:

Average under 18 remand population 2000-2008

Year	JJC	Other*	Total
2000	18	15	33
2001	14	15	29
2002	18	20	38
2003	14	30	44
2004	15	27	42
2005	17	26	43
2006	17	23	40
2007	22	12	34
2008	17	15	32

Source: Youth Justice Policy Unit, Northern Ireland Office

* Other includes those at the Young Offenders Centre (YOC), Maghaberry and Female Prison

6. REFERENCES

Footnotes

1. www.restorativejustice.org.uk/About_us/pdf/What%20is%20RJ3%202007.qxd.pdf
2. The New Zealand approach to restorative justice is well known and has influenced the development of schemes in many other jurisdictions, besides Northern Ireland. Family group conferencing is incorporated in the formal criminal justice system, and typically involves meetings between the offender, his family and the victim(s). The programme is viewed by many as having its roots in traditional Maori culture. (The main components of the New Zealand approach, alongside other examples of restorative justice, are discussed in Campbell et al's evaluation of the Northern Ireland Youth Conference Service (2006).
3. For evaluations of restorative justice schemes in England and Wales see, among others, Wilcox and Hoyle (2004), Shapland et al (2008), Miers et al (2001).
4. In all Youth Justice Agency official documents, the term 'young person' rather than 'young offender' is used to refer to any individual who has been referred to the service.
5. From this date, 17-year-olds came under the remit of Northern Ireland's youth court.
6. Where the offence is indictable only in the case of an adult, or is a scheduled offence under the Terrorism Act, the court may, but is not obliged to, refer for a youth conference.
7. These reoffending figures compare very favourably with those from England and Wales. Here, the one-year proven reoffending rate was 69% for offenders aged 10 to 17 who received community penalties in the first quarter of 2006 (Ministry of Justice, 2008).
8. Maruna et al's interviews were all carried out at least one year after the young person's initial involvement in the Youth Conference Service.
9. www.youthjusticeagencyni.gov.uk/about_us
10. As related to Prison Reform Trust researchers in interviews with Youth Conference Service staff.
11. Convery, U. and Moore, L. (2006)
12. Criminal Justice Inspection Northern Ireland (2008)
13. The QUB evaluation also found that 'the introduction of youth conferencing posed some challenges for the probation service in the early days', but that initial problems were being effectively addressed (Campbell et al, 2005: 133).
14. See Wilcox and Hoyle (2004) for a review of 46 restorative justice projects funded by the Youth Justice Board.
15. Unless the offence is so serious that the court decides custody is absolutely necessary, or the offence is relatively minor so that a disposal such as a fine or absolute discharge can be given. If the offence is punishable with imprisonment, but custody is not necessary, a referral order must be imposed.
16. YJB research into attitudes of sentencers found that they tended to feel that the referral order was not a rigorous enough response to serious offending, and resented the fact that they did not have recourse to other non-custodial options in sentencing first-time offenders pleading guilty to serious offences (Fine Art or Science YJB, 2009).
17. The youth offending teams joint inspection report of 2006/07 found that out of 271 referral orders, in only 23, or 8% of, cases did the victim attend the panel (HM I

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Making Amends: restorative youth justice in Northern Ireland

The Youth Conference Service, established in Northern Ireland in 2003, placed restorative justice at the heart of the youth justice system, integrated within both the prosecution and sentencing processes. Since then, the number of young people engaged in youth conferencing has grown year on year and, to date, more than 5,500 referrals have been made to the service.

There is sound evidence that victims who attend conferences express high-levels of satisfaction with the process and outcomes, and levels of participation are reasonably high. There are encouraging signs that youth conferencing is leading to a reduction in reoffending rates. The establishment of the Youth Conference Service has also contributed to an overall decline in the use of custody for young offenders, and to an increasing rate of diversion of young people out of the formal criminal justice process.

This report, commissioned as part of the Prison Reform Trust's strategy to reduce child and youth imprisonment in the UK, explores the experience and impact of youth conferencing in Northern Ireland and looks at the potential benefits of introducing a similar model to the youth justice system in England and Wales.

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