



# Young people's views and experiences of the Youth Justice System

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# Young people's views and experiences of the Youth Justice System

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# Young people's views and experiences of the Youth Justice System

## **Abstract**

There has been an increasing emphasis on the importance of young people's participation in the youth justice system. One example of this is the introduction of Referral Orders for young people who plead guilty to their first criminal offence. In particular, the use of panel meetings means that young people are given the opportunity to speak for themselves and discuss their offence, rather than be represented by someone else. In spite of this, few studies have asked young people about their experiences of referral orders, and this seems at odds with the aim of increasing young people's participation. In order to address this issue, the current study used a series of focus groups to explore the experiences of young people currently on referral orders.

The research provided a useful insight into the views of these young people and, in line with previous studies, highlighted the perceived power differentials that exist between young people and some of the adults working within the youth justice system, most notably those working in the Police service and in court. Additionally, it was evident that the young people lacked understanding about how some aspects of the system worked, and this in turn served to increase the perceived power imbalance. In contrast, experiences of panel meetings were far more positive. The young people reported that panel members were respectful and helpful, and this had a positive impact on their interactions with them. Nevertheless, it was clear that the young people were not playing as participatory a role as originally intended during panel meetings; in part, this was because they were not fully aware of the purpose of such meetings. Taken together, the findings suggest that the use of information letters or leaflets that explain each stage of the justice system, and the young person's role within these, may offer a way of addressing some of these issues. The provision of information provides a simple way of empowering these young people, and this in turn may serve to increase their engagement with the system as a whole.

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### **1. Introduction and aims of the project**

In recent years, there has been an increasing emphasis on the use of restorative approaches in the youth justice system. An example of this is the introduction of Referral Orders for 10 – 17 year olds who plead guilty to their first offence (The Youth Justice & Criminal Evidence Act, 1999). Upon receiving a Referral Order, the young person is referred to a Youth Offender Panel, which works with them to devise a contract that includes some form of reparative activity, as well as an intervention programme aimed at reducing re-offending.

The idea is that the contract is devised in collaboration with the young person, rather than imposed upon them (Ministry of Justice, 2009). A novel part of the process is the inclusion of voluntary panel members from the local community who are tasked with chairing the panel. Other members include Youth Offending Team (YOT) representatives and may include young people's parents and the victim.

Referral Orders offer a way of increasing young people's participation in the justice system as they encourage them to play an active role in making amends to the local community and/or to the victim. In particular, the use of panel meetings means that, unlike court, young people are given the opportunity to speak for themselves, rather than be represented by someone else (Crawford & Newburn, 2002).

Notably, however, very little research has examined young people's views on this approach, and this omission seems at odds with the notion of increasing young people's participation in the system (Hazel *et al.*, 2002). Consequently, the aim of the current research was to address this oversight by exploring the views of young people on various aspects of the youth justice system, with a particular focus on panel meetings.

### **2. Context**

To date, a handful of studies have examined young people's views on the youth justice system. The Youth Justice Board (2003) compiled a report which provided an overview of people's experiences of various aspects of the justice process, including the police, court, and panel meetings. This revealed that there was considerable variation in young people's experiences of different stages of the system. Young people reported that they were not treated in a fair or respectful manner by police officers or during court, and were often left feeling confused and intimidated. For example, they described feeling discriminated against by police officers and, in some cases, were unsure why they had been arrested or what their legal rights were (Hazel *et al.*, 2002; Fitzgerald *et al.*, 2003). Similarly, court was viewed with apprehension, at least on the first appearance, and for many, simply happened 'around' them, but did not include them in a meaningful way (Fitzgerald *et al.*, 2003). Young people reported that they did not understand some parts of the court process and felt worried about speaking or asking questions in front of the judge (Hazel *et al.*, 2002).

In contrast, experiences of panel meetings were more positive. Young people reported that they were treated with respect during the meetings and had felt able to provide their side of the story (Newburn *et al.*, 2001, 2002). Over two-thirds of the young people in Newburn *et al.*'s (2002) study reported that the resulting contract was useful, whilst more than three-quarters reported that the Referral Order had helped prevent them from re-offending. Nevertheless, the young people sometimes lacked an understanding about the purpose of the panel meeting, and many could not remember exactly who had attended their meeting. Further observations revealed that only around half of young people made a 'lengthy and full contribution' to the meeting, and around 90% of the

contract content was suggested by either panel members or YOT officers, rather than the young people themselves. Moreover, just under half of the young people reported that they had simply gone along with what the panel had suggested. This suggests that such meetings might not be as participatory as originally intended.

The above studies provide a useful starting point for exploring young people's views on the justice system. Nevertheless, there is scope for probing some of these issues in more depth. It would be useful to examine what could be done to improve young people's experiences with the police and in court. It has been suggested that reducing the perceived power differentials between young people and the adults they encounter in the justice system could go some way in improving young people's engagement with the system as a whole (e.g. Hazel *et al.*, 2002). This therefore seems an important area of research to cover.

Equally, whilst views of panel meetings were more positive, it would be useful to understand why there is limited involvement from young people during these meetings, and what could be done to increase their participation. It would also be helpful to explore young people's views on the qualities of the panel members leading the meetings. Selection of panel members is important given the responsibility placed upon them during the meetings (Earle & Newburn, 2001). However, as volunteers rather than professionals, they are likely to have quite different skills and characteristics to other adults encountered by young people within the justice system (Morgan, 2005).

Guidance on the selection and recruitment of panel members (Home Office, 2000) suggests that they should be recruited on the basis of personal qualities, rather than professional qualifications, and be representative of their local community composition. It is notable, then, that most panel members are white, female and over the age of 40 (Biermann & Moulton, 2002; Earle & Newburn, 2001; Newburn *et al.*, 2002). This is reflected in the fact that, whilst YOTs have generally not experienced difficulties in recruiting panel members *per se* (Newburn *et al.*, 2002), they have struggled to recruit members from certain groups in the community, such as young males (Biermann & Moulton, 2002).

As a result, recruitment has sometimes focused on the availability of volunteers, rather than the extent to which they represent the local community (Earle & Newburn, 2001). This issue is compounded by difficulties in teasing apart what it actually means to be 'representative' and how this might be achieved in practice (Crawford & Newburn, 2002). It seems pertinent to consider whether panel members should have characteristics that are representative of the local community *or* whether it is more important for them to have characteristics that enable them to interact well with the young people they are supporting. The individuals who seem best placed to answer this question are the young people themselves.

## **2. 1. The current study**

The current study gave young people who have experienced Referral Orders the opportunity to express their views on each stage of the youth justice system – from their initial experiences in the police station, through to court, and finally their panel meeting. Their views were gained through the use of focus groups. The content of the focus groups was devised by a steering group of young people, thus ensuring that young people's views were reflected in all aspects of the research, including the planning stages. This is an Action Research Project and the research findings will be implemented to improve current and future practice where possible.

### 3. Methodology

#### 3.1. Steering group

The steering group consisted of three young people aged between 14 – 17 years who have had experience of being subject to a Referral Order (mean age = 15; 2 males and 1 female), two members of the YOT team and a member of 'Catch22', a restorative justice group. The purpose of the group was to organise and plan the content of the focus groups. The group came up with a number of ideas, including:

- Ground rules to be displayed on a flipchart during the sessions (developed during the meeting)
- The use of small group work during sessions, to ensure everyone felt comfortable giving their views
- Visual prompts to aid understanding
- Food and refreshments during the sessions
- Ice-breaker activities (e.g. a board game, an outing beforehand)

Ultimately, all these suggestions were taken on board, with the exception of the ice-breaker activities - due to time limitations, it was not possible to include these.

#### 3.2. Focus groups

Participation in the focus groups was included as a reparation option for young people currently on a Court Order. Participation was not compulsory – if a young person did not wish to take part in the research, they were able to choose another reparation option instead. Informed written consent to participate was provided by all the young people who took part, as well as their parents when aged 16 or under.

Focus groups took place in two different areas, and each young person took part in two sessions, on consecutive weeks. Each group was led by two facilitators (members of the YOT team and Catch22) who did not usually work in that particular area<sup>1</sup>. Nine young people were invited to attend the first focus group, and four subsequently came along to the first session (mean age = 16; 2 males, 2 females). Of these, two were members of the steering group. Three of the four individuals returned for the second session. Three young people (mean age = 17; 2 males, 1 female) attended the second focus group; all three attended both sessions.

At the start of each session, the group went through the aims of the project and the ground rules. A picture of a road<sup>2</sup> was used as a visual prompt to illustrate the young people's journey through the justice system, and participants were asked to name different parts of the process they had experienced since their offence (e.g. police station, court, panel meetings). These were added to the 'road' and referred back to during the sessions. To stimulate discussion, each participant was initially given a set of 30 descriptive words and asked to choose which words best described their feelings at the police station, court and panel meeting. Some of the words were positive (e.g. friendly, enthusiastic), some were negative (e.g. angry, ashamed) and some were neutral (e.g. surprised). Their responses were then used as a springboard for further discussion about their experiences. The second session subsequently explored the issues that emerged in more detail. Each session lasted for approximately an hour and a half, with a break in between. Pizza was provided during the sessions. Notes were taken throughout, and each session was recorded. Flipchart notes have been destroyed given that this data was typed into a word document. This

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<sup>1</sup> This ensured that the facilitators were not known to the participants, thereby encouraging open and honest discussion.

<sup>2</sup> This was only used during the second set of focus groups.

document has been stored and password protected and does not contain the names of the young people who took part. The taped recordings are stored securely in the Youth Offending Team premises.

#### **4. Findings**

The results of the focus group were analysed using a grounded theory approach. Italics indicate direct quotes.

##### **4.1. Experiences of the police station**

Most of the young people's experiences of the police station were negative – they chose adjectives such as “bored”, “angry”, “stressed”, “frustrated” and “ashamed” when asked to describe how they had felt. Often, these feelings were associated with a perceived lack of respect from police officers, although it was acknowledged that this was not the case for all officers:

*One was real nice, I pulled my sleeve up [for handcuffs], he said 'no, no, no, don't do that mate', and pulled my sleeve down so that it didn't cut in. I thought, nice one. The geezer before that, he didn't care, I thought it was a bit out of order...I was really polite, a really calm situation, and then for him to do that...I thought why should I be nice if you're going to be like that?*

*I think the respect is the important thing. As soon as you're not respected, you just get angry and wound up and frustrated and then that just changes the whole atmosphere of everything*

The young people reported being told to do things by the police, rather than being asked, and this was interpreted as further evidence for a lack of respect. The police were perceived as being able to “get away” with this due to their position of authority, and this had resulted in some of the young people feeling disempowered:

*They tell us what to do, and we got to do it. There's no reason or asking, because they're in authority they can make us, so they do*

*They've got the authority, just abuse the power they've got, so they know they can do it, they know they can get away with it, there's nothing no one can do about it*

Additionally, it was felt that the police treated all young people the same, rather than viewing them as individual people:

*They see us as just troublemakers...they really ain't got time or patience, like the way they should have. We're not all the same*

##### **4.2. Experiences of court**

For most, court was a daunting experience. Participants described feeling “sorry” and “ashamed”, but also “worried”, “frightened” and “unhappy” at the thought of potentially being taken into custody.

*It scared the hell out of me when I first went*

In addition, several stated that they felt “confused” and “nervous”, both in terms of actually standing up in court, but also in terms of more practical issues, such as travelling to the court and knowing what to do on arrival:

*I was nervous...I had to go myself...find the court, didn't know where it is...I've been there quite a few times...but every time, my dad's always been with me, he knows what's going on, what's happening, what to do next. Because he weren't there, I didn't really have anyone to ask where to go, what happens now, what to do*

*It's when they all start talking to each other...I'm not sure what they're discussing, whether it's about me or something else, what they're going to do to me or not do to me...makes me a bit confused*

*District judge was a bit scary...being in a glass booth, being high...I felt all enclosed and everything...It was a bit unnecessary really, we're only 16 year old kids. There was tables and chairs we could have just sat at*

Such concerns were often compounded by a long wait for their case to be heard and this left the young people feeling “bored” and “annoyed”. In other instances, they were given limited time to discuss their case with a solicitor. Where it was possible to meet and discuss everything beforehand, however, this had minimised anxiety:

*With the one [solicitor] before, I got there, never ever met them, [he] called me up, rushed through everything, quickly read it, I said a few things, and that was it... [Whereas with the other solicitor] he actually sat us down at his desk, got his notepad and pen and everything, which I feel a lot more comforting, it actually feels like he's actually trying, like he understands*

It was suggested that advance information about the court process would help to alleviate concerns. This could be sent as a letter and contain a practical step-by-step guide of how to get to court, and what to do upon arrival:

*A letter...you could do it in bullet points: go there, go to the main office, see a person, tell him your name...they'll be able to tell you what time your hearing is...who your solicitor is, what to do from there...a map where the court is...they could do the route for you*

Aside from feeling worried or nervous about court, some of the young people perceived a lack of respect from court employees:

*We went there, and we walked in, got all the scan bit, they did all of that, then [we] went out, sat directly outside the window, had a fag, then we came back in, and he's patting us all down and that...and there's the old solicitor, he just walked straight through, no patting him down – what's the difference?*

Whilst it was conceded that court was not intended to be a nice experience – “you're going there because you're being punished, they're trying to make it something bad, not nice, so that you don't commit crimes again” - the young people felt that this should not preclude them from being treated in a fair and respectful manner.

### **4.3. Experience of panel meetings**

Discussion of panel meetings fell into four main areas, i) the purpose of the meeting, ii) the panel members, iii) the venue and iv) participation during the meeting. The following sections highlight the key themes to arise from each of these.

#### **4.3.1. The purpose of the meeting**

In contrast to the police station and court, where it was generally clear what the purpose was, the young people expressed confusion over the rationale behind their panel meeting:

*I went to court and then after, one of the people that was there from the panel meeting<sup>3</sup> went out to see me quickly and just asked for my details, and then I got a letter that said I've got to be at this place at this time...I didn't have a clue who was going to be there. I just knew I needed to be at this place*

It was suggested that the use of a letter or leaflet with further information about panel meetings would be helpful, particularly if it was produced by young people who had experience of the panels:

*There should be a leaflet to explain what's happening...what to expect, what's going to happen after...who's going to be there...bullets or a slide show...they should get someone that's like one of us do to a PowerPoint or something, to show other people what to expect, from our point of view...instead of an older person explaining it*

#### **4.3.2. Panel members**

Equally, there was some confusion over who the panel members chairing the meeting were:

*I don't know [who they were]...I have to meet them at the beginning and at the end, tell them what I've achieved...I honestly haven't got a clue*

One of the young people described the panel members as “old people giving up their time for you” and this exemplified the view of most of the young people. However, the fact that the panel members were often old was not, in general, perceived to be a bad thing:

*They was old people, but it was pretty much easy to talk to them*

Indeed, the young people suggested that they might feel awkward talking to someone their own age during a panel meeting. They were also concerned that this would increase the risk of them personally knowing the panel member, something which they did not want to happen.

Similarly, the fact that the panel members were volunteers was generally viewed as a positive:

*They want to do it, they don't have to do it, because they're volunteers, so you know that they want to help you*

On the whole, the panel members were viewed as polite and respectful, and this in turn increased the young people's desire to work with them:

*They were polite, shook my hand*

*How they was with me, being friendly to me, obviously I'm going to be nice back...they do really want to help me*

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<sup>3</sup> This would have been the panel adviser/youth justice officer not a volunteer

*I thought they were really nice, the old woman was really friendly, they actually showed an interest in helping me, not just 'got to do that'*

This was not, however, the universal experience:

*I wanted her to shut up...She wasn't showing any respect...because I'm a young mum*

The young people were asked whether they would change anything about the panel members. One of the young people spoke English as a second language and suggested that, although an interpreter had been present for his father during the meeting, it would have been helpful if one of the panel members had been from his native country as this would have helped him to communicate more easily:

*You can explain it more properly then*

In another case, two of the young people described how their panel member had a disability<sup>4</sup> and, because it was not explained at the outset of the meeting, this had proved distracting. Both suggested that they would have welcomed some explanation of the disability at the beginning of the meeting.

#### **4.3.3. Venue**

Several participants commented on the location of their panel meeting. In some cases, the fact that their meeting took part in a church was viewed with apprehension; this was particularly linked to the presence of religious statues:

*[a statue of] Jesus Christ...he was watching over me*

The general view was that a church was an inappropriate place for a panel meeting to take place:

*It shouldn't be in a church...making criminals come into their church [is wrong]*

*Religious people wouldn't take it very well*

Others commented on particular characteristics of the venues. One young person highlighted the size of her meeting hall, expressing the view that it was too big for the number of the people in the meeting:

*It was like a big school hall, there was four of us, and we just sat in the middle of this big school hall-wannabe and it was really quiet and echo-y and scary*

#### **4.3.4. Participation in panel meetings**

Having considered who attended the meetings, and where they were held, the discussion moved to the content of the meetings. There was some uncertainty over who should be doing most of the talking during the meeting. Most of the young people felt that the adults present should lead the discussion, as they had written the contract:

*The person that's made it [the contract]...they should be the ones talking and explaining*

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<sup>4</sup> Both young people were referring to the same panel member; the quote has not been included due to confidentiality.

However, the young people agreed that, had they written their own contract, they would be happier to talk more during the meetings. They also agreed that they were likely to have a unique insight into why they had offended, and might therefore be well positioned to offer suggestions as to what might prevent them from re-offending. It was also suggested that playing a more active role in the discussion would help to make the content more memorable. However, they expressed trepidation at the thought of actually writing the contract:

*Not just anyone can write a contract, there's people specific for that role, hence the people at the panel meeting*

One suggestion was that the panel members could write most of the contract and then allow the young person to add their views at the end, whilst another suggestion was that the contract could be a team effort, worked on equally by all participants in the meeting.

*If you were sensible in what you were saying and it did make sense, like if you said 'oh yeah, I got angry because he did that, but wouldn't if this was there' or something, then maybe they could add that on to your contract - not make that your contract - but have a bit at the bottom where they can put things into your contract for you, make it easier, more understandable, and then that way, both of you are communicating...you're getting more into it, because you're being more involved*

*You should work on it together*

It was acknowledged that there would be variation in whether young people wanted to contribute to their contract, and that the best approach might be to give individuals the option of doing so:

*I know with me when I go to things, I just want to get it over and done with, I just want to get home and back to what I was doing...it would be better if they give you the opportunity [to contribute to what's in your contract], it's up to you whether you take it or not*

## **5. Implications for practice**

The results provide a useful insight into the views of young people on various aspects of the justice system and help to extend previous research in this area. The following section is divided into subsections, highlighting the key themes to emerge from the research, and the associated implications for practice.

### **5.1. Characteristics of adults working in the youth justice system**

The young people's views on the adults they encountered within the system varied somewhat. In line with previous research (e.g. Newburn et al., 2002), respect was highlighted as a key issue in all areas. Police and court officials were sometimes identified as lacking in respect, and there was a sense that all young people were – incorrectly - treated the same. More importantly, this perceived unfairness had an influence on how the young people subsequently acted. Where they felt they were treated with respect, the young people reported that they responded in a positive manner; however, where this was not the case, they felt angry and frustrated and responded in a far more negative way.

Such reports are in line with previous research (e.g. Hazel et al., 2002) which suggests that reducing power differentials between young people and adults working in the justice system may result in greater engagement on the part of the young people. Encouraging the police and Court staff who

work within the youth justice system to treat the young people fairly and with respect, therefore seems an important target. Additionally it is evident that there is a need to increase information in an accessible format to young people regarding all aspects of the youth justice system to reduce uncertainty and confusion and increase young people's participation. This may go some way in empowering young people and help reduce their sense of being 'done to' by the system.

With this in mind, it was encouraging to hear that, unlike police and court officials, panel members were considered to be friendly, respectful and helpful by nearly all participants. This was in part due to the fact that they were volunteers – they were perceived to be there because they wanted to be, and not because they had to, and this was welcomed by the young people. Although guidance suggests that panel members should be representative of their local community (Home Office, 2000) – a feat not often achieved in practice - this was not raised as an issue by the young people. Indeed, they valued the fact that panel members were older as they felt this reduced the likelihood of them being a personal acquaintance.

Rather than seeking panel members who are representative of the local community as a whole, it may be more helpful to consider the personal qualities of the young person attending the meeting and consider whether it is possible to 'match' the panel member to these. For example, one young person who spoke English as a second language suggested that it would have helped if his panel member had come from his native country, as this would have made it easier for him to express himself during the meeting. This suggests that, in some circumstances, the extent to which the panel members' personal characteristics match the individual young person may be more important than the extent to which they match the local community as a whole.

Interestingly, this research has highlighted the need to prepare the young people regarding the diversity of some of the panel members as mentioned earlier in the case of young people being surprised to encounter a panel member with a disability.

## **5.2. The need for information**

The young people were unclear on a number of aspects of the justice system and this was particularly the case when attending court. Again, this is in line with past research (e.g. Fitzgerald et al., 2003; Hazel et al., 2002). As might be expected, the young people expressed concerns over having to stand up in court, and knowing what to say or do. However, it became clear that these worries extended beyond the hearing itself - concerns often centred on how to actually get to court, and what to do on arrival. Whilst it was acknowledged that court was not supposed to be a pleasant experience, the young people felt that steps could be taken to make it a less daunting experience. Providing advance information about what will actually happen upon arriving at court is one way of addressing this issue.

The young people were equally confused over the purpose and process of the panel meetings, although the process itself was considered less scary than court. This is because the young people did not know who would be there and what would happen during the panel meeting. It was suggested that an explanatory letter or PowerPoint presentation, ideally devised by young people who had been through the process, would have been beneficial. The young people's discussions revealed a number of misconceptions in their understanding of their role in the meeting (discussed below), thus further information ahead of the meeting would help to ensure that all young people are clear on the purpose of the meeting, and their expected role.

## **5.3. Participation in panel meetings**

The young people expressed some surprise at the suggestion that they could have been more involved in their panel meetings. Initially, they argued that they felt under-qualified to help write their contract but, after some consideration, most agreed that they might be able to offer a unique insight into why they had offended and what might prevent them from re-offending.

Participation of young people towards deciding the content of their contracts is fundamental to the principles of Referral Orders. It is therefore surprising that the young people who took part in the focus groups did not realise that they were part of the decision making process. This highlights the need to empower young people with greater pre-panel preparation. This could take the form of a leaflet, as discussed by the focus groups, as well as greater preparation for the panels by the supervising officer and a greater expectation by panel members themselves of young people's participatory roles.

The researchers were interested to discover that some young people thought that the meeting 'shouldn't be in a church'. Venues for panel meetings are very often in church halls due to their convenient locations, however consideration to young people's and carer's diversity issues will be made in the future.

## **6. Conclusion**

The research provided a useful window into the views of young people regarding Referral Orders. Whilst some of the findings reinforce previous research, and once again highlight the perceived power differentials that exist between young people and some of the adults working in the youth justice system, the findings also extend previous research by seeking the young people's views on what could be done differently.

The importance of informing the young people about what is involved in each stage of the process, and what is expected of them, emerged as a central issue. The provision of information offers a simple way of empowering young people – many of the young people were confused or intimidated through lack of knowledge, and this in turn had led to frustration. This suggests that the development of posters, leaflets or presentations may offer efficient methods of resolving some of these difficulties. As this is also an action research project, we will be purchasing materials so that young people involved with the Youth Offending Team can develop these ideas.

It was evident that the young people were not playing as participatory a role as originally intended at panels. Whilst the young people found the panel members to be respectful and helpful, there was still a sense that they were there to listen to the adults, rather than to contribute; nevertheless, the opportunity to take a more active role was received positively. Information regarding panels designed by young people would go some way to encourage young people's participation.

Such findings are particularly important in light of recent legislative changes (Criminal Justice and Immigration Act, 2008) which update the use of Referral Orders to include a new "intensive contract" for custody threshold cases with intervention options that can be more punitive and restrictive. The current research suggests that young people value the panel meetings, and appreciate the opportunity to be listened to and discuss why they offended. It will therefore be important to evaluate the impact of the introduction of more punitive and directive measures, with a view to establishing whether they offer a useful way forward in the youth justice system.

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