

9.1 Diversion from Prosecution

Improvement Project Title: Diverting people from Prosecution			
Executive Sponsor (Chair of Outcome Improvement Group): Derek McGowan, Chief Officer Early Intervention & Community Empowerment, Aberdeen City Council			
Project Lead: Claire Duncan, Lead Social Work Officer, ACHSCP (Claduncan@aberdeencity.gov.uk)			
Aim statement (What are we trying to accomplish? Over what time? Numerical target for improvement?) Extend the multi-agency problem solving approach to all 16 and 17 year olds charged with an offence to reduce the likelihood of reoffending which could lead to a conviction by 2021. Increase the number of cases of people appropriately diverted from prosecution by 2021.			
Link to Local Outcome Improvement Plan:			
Stretch Outcome	Key Drivers	Improvement Project Aim	Key Improvement Measures
9. 25% fewer people receiving a first ever Court conviction each year by 2026 <i>(Baseline data: 40 young people aged under 18 in 2016-17; 796 people aged 18+ in 2016-17)</i> Responsible Outcome Improvement Group: Community Justice Group	9.1 Taking an effective, trauma-informed, problem-solving whole system approach to offending by 16 and 17 year olds	Extend the multi-agency problem solving approach to all 16 and 17 year olds charged with an offence to reduce the likelihood of reoffending which could lead to a conviction by 2021.	% of those charged receiving appropriate police direct measures <i>(Baseline data: 16/17 – 27% 17/18 – 21%)</i> % of those charged who were appropriately diverted from prosecution by the PF <i>(Baseline data: 16/17 – 2% 17/18 – 4%)</i> % of young people who go to court who receive a dedicated youth service No. of offences committed by 16 & 17 year olds : i) Group 3 offences - e.g. shoplifting, housebreaking and theft of motor vehicles. <i>(Baseline data: 16/17 – 293 17/18 – 167)</i> ii) Group 6 offences - e.g. common assaults and breach of peace. <i>(Baseline data: 16/17 – 234 17/18 – 192)</i>
	9.3 Ensuring a targeted approach to diverting over-18s from prosecution to effective interventions aimed at reducing the likelihood of reoffending, where appropriate	Increase the number of cases of people appropriately diverted from prosecution by 2021.	% (number) of charges for which appropriate police direct measures were given as alternatives to arrest <i>(Baseline data: 16/17 – 4% (747 of 19,671) 17/18 – 7% (1,314 of 19,671)</i> % (number) of charges for which appropriate Fiscal Direct Measures were given, as alternatives to formal Diversion from Prosecution, and to prosecution: - Warnings <i>(Baseline data: 16/17 – 2% (438 of 19,671)</i> - Fines/Compensation/Penalties <i>(Baseline data: 16/17 – 6% (1,219 of 19,671)</i> - Fiscal Work Orders <i>(Baseline data: 16/17 – 0% (66 of 19,671) 17/18 – 0% (76 of 19,671)</i> No. of cases of people who were appropriately Diverted from Prosecution by the PF aged: 18-25 <i>(Baseline data: 16/17 – 20; 17/18 – 21)</i> 26+ <i>(Baseline data: 16/17 – 32; 17/18 – 54)</i>
<p>The number of individuals charged by the police will be impacted upon by the LOIP projects being undertaken under Stretch Outcome 8 (Fewer young people charged with an offence). The project will also link to work being undertaken at the Police Custody Suite through projects being progressed under Stretch Outcome 10, e.g. uptake and retention of people in alcohol and drug services, and numbers referred in relation to mental health issues.</p>			

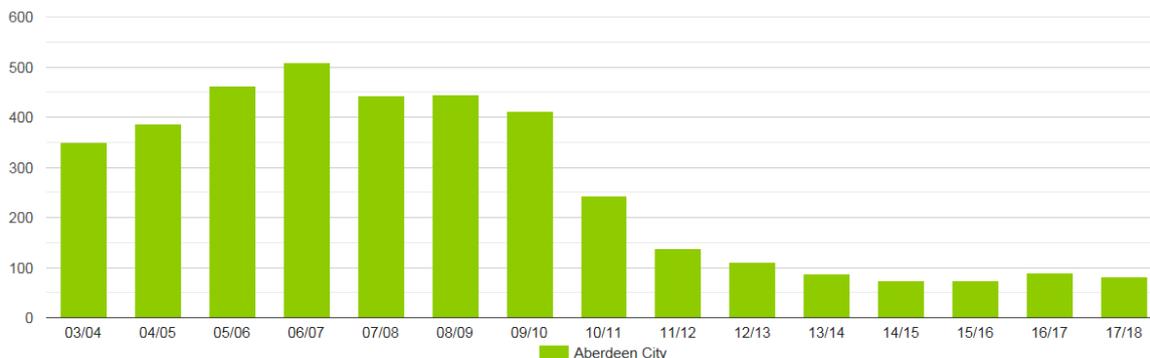
Why is this important?

During the course of the project to-date, systems have been improved through mapping local processes and establishing single points of contact within Police Scotland and Criminal Justice Social Work Services. This has clarified and streamlined processes for the identification and referral of individuals for diversion to Social Work by the Procurator Fiscal. The PF make decisions about cases based on information provided by police. Improved information about individuals' circumstances may help to inform this decision-making, and potentially increase numbers receiving Fiscal Direct Measures as a result of contextual information eg in relation to vulnerabilities. (NB The basis of PF decision-making is what is in the public interest.) Changes identified for testing in this refreshed charter relating to increased awareness of Police and PF staff, and information provided to the PF by the Police, will focus on this, in relation to both young people and over-18s. 'Guidelines' will be developed and tested, aimed at increasing the use of Police Direct Measures, particularly in relation to over-18s. (See further information below about Police Direct Measures for under-18s as part of the Whole System Approach). The use of Exit Questionnaires to seek feedback from 'clients' will be tested across the direct measures where there is interaction with a service, to inform the effectiveness of this as a mechanism for assessment of the value of the Direct Measures for individuals and any implications for service provision, with a view to identifying further potential change ideas to aid continuous improvement. (There has been no such mechanism in place to-date.)

Benefits to Individuals, their families, victims and communities:

- The less contact an individual has with the justice system, the less likely they are to have further involvement in offending. (What works to reduce reoffending: A summary of the evidence (Justice Analytical Services, Scottish Govt, 2015))
- Diversion from prosecution affords an opportunity to explore, and ideally address, the factors underlying the offending behaviour, and not the simply the offence. This reduces the likelihood of reoffending.
- Within the overarching aims of increasing numbers of those diverted from prosecution, and of providing a range of interventions responsive to individual need, the project will take a specific focus on certain groups of individuals and offence types. This is to provide early and effective intervention that is desistance focused, and addresses trends in crime perpetrated, where the factors would benefit from the type of support offered as part of diversion from prosecution.
- A wide range of diversion interventions exist in Aberdeen City across partners in both youth and adult services. The project provides a focus to assess their effectiveness and increase access for those who can benefit from such approaches.
- Increasing the use of diversion means individuals do not receive a conviction which remains on their permanent record, allowing them to move on from the offence.
- The stigma of a criminal conviction impacts on families as well as individuals. Diversion from prosecution reduces the stigma and improves the life chances of people within a community.
- Communities benefit from individuals reducing their involvement in offending from an early stage through diversion opportunities, and investing more positively in economic growth and citizenship.
- Communities benefit from projects undertaken through Fiscal Work Orders.
- Re-establish the positive outcomes created as a result of the Whole Systems Approach

(WSA) for young people (under 18). The Whole Systems Approach saw a dramatic reduction in the numbers of young people charged with an offence or referred to the Reporter on offence grounds. The chart below shows the number of children/young people referred to the Scottish Children’s Reporter Administration (SCRA) on offence grounds in Aberdeen City. The Whole System Approach was introduced in 2011, based on GIRFEC principles. (The chart is set against a context of a reducing trend in crime levels over the period.)



- The WSA multi agency approach focused on key areas for those involved in offending behaviour which included early intervention, diversion, court support, community alternatives to secure care/custody and managing those placed in secure care custody who pose a high risk and reintegration back into the community.
- Aberdeen was one of three Whole System Approach funded pilot areas which was evaluated by the SCCJR (EVALUATION OF THE WHOLE SYSTEM APPROACH TO YOUNG PEOPLE WHO OFFEND IN SCOTLAND June 2015). The funding was not continued, and in Aberdeen, not all elements of the WSA remain in place, hence the need for a re-focusing on police and fiscal direct measures and support for young people at court as envisaged in this charter. (It must be noted that Early and Effective Intervention by Police Scotland via the Youth Justice Management Unit (part of the WSA) continues to play a significant role in diverting young people from prosecution.)
- Other elements of the WSA (community alternatives to secure care/custody, managing those placed in secure care custody who pose a high risk, and reintegration back into the community) have been identified for improvement work under a Stretch Outcome 10 project to be taken forward separately.

Benefits to stakeholders:

- Diversion from prosecution reduces unnecessary court time for Police, COPFS, defence agents and additional support services.
- Court time can be used more effectively and focus on more serious and complex cases.
- Addressing the causes of offending at an early stage reduces the likelihood of further offending and time spent in both custody and on community sentences.
- The presumption against short sentences means that more individuals will be supported as part of community sentences. Diversion provides a way of allowing Criminal Justice Social Work to provide an enhanced service, by addressing other, lower level offending at an earlier opportunity.
- Partners will work collaboratively, and share information appropriately, to provide a holistic response to improve outcomes for individuals.

Impact to cost and resources:

- While impact to cost and resources will be experienced during the short, medium and

long term, improving the provision of diversion from prosecution towards sustainable outcomes for those involved is a longer-term, preventative aim. The aim would be for resourcing to be re-focused in the longer term to early intervention and prevention to reduce reoffending.

Measures: (How will we know if a change is an improvement?)

Outcome Measures (LOIP Measures)

- Number of referrals for diversion from prosecution – all ages (including Police and Fiscal Direct Measures)
- Number receiving police direct measures (16s & 17s, and over-18s)
- Number diverted from prosecution by the Procurator Fiscal, e.g. Warnings, Fines, Fiscal Work Orders, Diversion to Social Work (16s & 17s, and over 18s)
- Number of Group 3 (e.g. shoplifting/housebreaking/theft of motor vehicles) and Group 6 (e.g. common assault/breach of peace) offences committed by 16s & 17s
- Number of young people (16s & 17s) who are supported at Court

Staff within relevant organisations divert individuals from Prosecution.

- Number of Standard Police Reports which contain relevant information to inform PF's decision-making regarding Direct Measures

Clear processes for direct measures are in place

- Number of individuals diverted to social work or on Fiscal Work Orders who are satisfied with the diversion process (from Exit Questionnaires)
- Partner satisfaction regarding clarity of processes

Appropriate and effective Diversion options are available to meet need

- Improvement of identified need/s of individuals diverted to Social Work
- Sample of cases tracked to identify improved outcomes over the longer term

Change ideas (What changes can be made that will result in improvement?)

Staff within relevant organisations divert individuals from Prosecution.

- Improved information in Standard Police Reports - to inform COPFS decision-making
- Guideline for police direct measures – to increase Police knowledge about direct measures
- Establish system between Police and PF relating to police concern reports – to improve information provided to PF to inform decision-making
- Mechanism for referral from custody suite to Court Social Work for early assessment for problem solving Court/Court support for young people
- Regular training/awareness raising for relevant key stakeholders – to increase knowledge about diversion options
- Diversion practitioners' forum – to share good practice, help build relationships, identify areas for improvement

Clear processes for Direct Measures are in place

- Map of data sharing processes – to enhance partner understanding of processes

Appropriate and effective Diversion options are available to meet need

- Exit questionnaire for clients diverted from prosecution by the PF – to assess this as a mechanism for obtaining feedback from clients
- Exit questionnaire for clients on Fiscal Work Orders - ditto
- Exit questionnaire for clients diverted to social work by YJMU - ditto
- Outcomes newsletter – to assess this as a way of highlighting the effectiveness of direct measures with stakeholders (eg partners, general public) Diversion Steering Group to be established with responsibility of data reporting – to test this as a way of ensuring sustainability and quality of diversion interventions
- Data-informed interventions in response to offence types – to assess the extent to which these result in reduced offending for the individuals involved
- Mechanism to support young people at Court – to be tested to see if it improves the experience of young people at Court

Potential risks and/or barriers and actions to address these:

- **Changes to crime trends and reporting** – Should crime trends in Aberdeen City change, or any new policy impact on the ability to divert individuals from court, this has the potential to reduce the efficacy of this project. This will be monitored by project group.
- **Data and information sharing** – Current data and information sharing processes between services involved in the diversion of individuals is unclear. To address this, a full review of all processes is on-going with a view to ensuring these are compliant with the General Data Protection Regulation coming into being on 25 May 2018 (see <https://ico.org.uk/media/1624219/preparing-for-the-gdpr-12-steps.pdf>).
- **National and local practice** – Cases marked for diversion in Aberdeen City are completed at both the local Procurator Fiscal Office and the National Initial Case Processing (NICP) Units in Paisley and Glasgow. To ensure the approaches implemented in Aberdeen City are consistently understood at both levels, Community Justice Scotland will engage with the NICP regularly to discuss progress and address any challenges which may present.
- **Up-Tariffing** – When individuals need support which can be identified and provided as part of diversion from prosecution, there is a risk of up-tariffing cases to ensure individuals receive that support, rather than to take no action. To avoid this, data will be continually reviewed, and information passed to the Arrest Referral project group and Early and Effective Intervention process, to support intervention at the earliest opportunity.
- **Increased pressure on resources** – Increasing diversion from prosecution and Police direct measures reduces the burden on Police, COPFS and Courts, but may increase pressure on the pre-disposal team within Aberdeen City CJSW, Children's social work teams and Barnardo's. This will be monitored by the all partners and can be discussed within the project group when necessary.
- **Victim perceptions** – Diversion from prosecution is an early intervention approach, and as such can be viewed as 'soft justice' or lack the visible approach to justice taken by the courts. To address this Victim Support Scotland attend the project group to provide input and regular media articles will be considered. Promoting the use of Restorative Justice provided by SACRO as a way for victims to retain power and control in the process will also support a positive view of diversion from prosecution.
- **Identification of people with lived experience** – Once data gathering has improved and the provision of interventions can be considered, people involved in diversion from prosecution could be used as an insight group and involved in co-production. Identifying

people who would wish to do this, and to ensure this is ethical, will also require consideration from an early stage in the process.

Project Team:

Claire Duncan, Lead Social Work Officer, AHSCP – Project Lead
 Lesley Simpson, Criminal Justice Social Work Service Manager, Aberdeen Health and Social Care Partnership
 David Wilkie-Thorburn, Procurator Fiscal, Aberdeen City (COPFS)
 Lorna Murray, Pre-Disposal Team Lead, Criminal Justice Social Work
Clare Hyslop/Nicola Williams, Barnardo's
 Elaine Logue, Police Scotland
 Jason Carrigan, Police Scotland
 YJMU Police Scotland (tbc)
Children's Services (tbc)
 Val Vertigans, Community Justice Officer

Outline Project Plan

Project Stage	Actions	Timescale
Getting Started (Project Score 1-3)	<ul style="list-style-type: none"> Project team established Initial baseline established Draft charter developed Charter submitted to CPA Board 	Complete Complete Complete Sep 2019
Designing and Testing Changes (Project Score 4-7)	<ul style="list-style-type: none"> Design changes for initial testing Evaluate overall achievement to date and plan further PDSAs or move to implementation 	Oct 2019 xx
Implementing and sustaining changes that demonstrate improvement (Project Score 7-9)	<ul style="list-style-type: none"> Agree which change ideas tested are proven to work that we will seek to embed permanently Continue to gather data Assess whether improvement levels are sustained 	xx xx xx
Spreading Changes (Project Score 9-10)	<ul style="list-style-type: none"> Assess opportunities to spread change 	xx