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Youth Justice and Social Work

**PAUL DUGMORE AND
JANE PICKFORD**

with contributions from Sally Angus

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In memory of Alma Pickford

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Introduction

Social work practice within the youth justice setting can be complex, challenging and laden with ethical dilemmas. However, it is also one of the areas in which social workers can really engage in significant work with young people in order to effect positive change. This can involve working with a wide range of service users aged from 10 to 18, as well as working closely with parents and carers all from a variety of social and cultural backgrounds. Young people will also present with many diverse experiences and needs and engage in a whole host of offending behaviour from first-time, trivial nuisance to persistent and serious offences. Social workers in this area have to work closely with a wide group of professionals including those making up multi-agency Youth Offending Teams (YOTs) such as the police, health and education staff to solicitors, judges, magistrates and prison officers. Working within youth justice can be both challenging and incredibly rewarding by being able to build important relationships and make a difference to the lives of young people.

In order to be able to carry out the roles and responsibilities in this area of social work practice, social workers need to employ a range of skills as well as acquire the relevant knowledge and display appropriate values and qualities in order to work effectively with young people who find themselves in trouble as a result of criminal behaviour. This includes:

- The National Occupational Standards for Social Work.
- The General Social Care Council's (GSCC) Code of Practice for Social Care Workers.
- The relevant legislative frameworks in relation to children and criminal justice.
- The ever-changing social and political context.
- Inter-agency and inter-professional working.
- Working with difference.
- Working with young people charged with, but not convicted of, criminal acts.

This book considers all of these areas of knowledge in relation to working within youth justice social work practice.

The subject benchmark statement for social work identifies four key areas in which students need to acquire knowledge, understanding and skills:

- Social work services and service users.
- Values and ethics.
- Social work theory.
- The nature of social work practice.

Working within youth justice requires a wide range of transferable skills. These include communication, gathering information, preparation, engagement, assessment of need and risk, record-keeping, analysis, report writing, time management, team working, decision-making, problem-solving, and intervention. These skills will be considered over the next nine chapters. Instrumental to these skills being employed effectively is the ability to practise in an anti-oppressive way that takes into account difference. This will also be addressed throughout.

Youth justice has been the subject of considerable change over the last eight years and it seems highly likely that this will continue to be the case as the government introduces and implements a raft of new legislation in relation to children and criminal justice such as the Children Act 2004 and the pending youth justice reform proposals.

This book is designed for social work degree students and those studying youth justice qualifications as well as those involved in the education of social work and youth justice and practitioners within the youth justice system.

Book structure

Chapter 1 discusses the values and ethics involved in working in youth justice. It considers some of the issues social workers have to wrestle with in this area of practice and places these within the context of the regulatory bodies involved in social work and youth justice such as the GSCC Codes of Practice. You will be encouraged to explore the value base that you approach your social work practice with and how your beliefs and prejudices might impact upon your practice with young people who offend.

Chapter 2 examines the development of youth justice theory, policy and practice. In order to understand the rationales underpinning any area of social work practice, it is vital to have an insight into the way your area of practice has been shaped by its history. The structure of the youth justice industry has been imbued by dominant philosophies that have seeped into the roots of the foundations of youth justice practice and govern contemporary practice. This chapter reviews the bedrock of youth justice theory and practice and traces the evolution of our unique youth justice system over the last hundred years.

Chapter 3 analyses theories of criminality that may be useful for practitioners within the youth justice system. These theories relate to understanding why young people commit crimes and take part in anti-social or delinquent behaviour. In this chapter we undertake a basic theoretical tour of some of the mainstream criminological theories.

Chapter 4 outlines the policy discussions and legislation that shape contemporary youth justice practice. As a social worker within the youth justice industry, you will need to be familiar with the law underpinning your practice and the rationales that justify the

current legal framework. We will examine the contemporary legal framework governing youth justice and set out the current sentencing options for young offenders. We will also analyse non-criminal orders, which have the force of civil law constraints on young people who take part in anti-social and disorderly behaviour.

Chapter 5 considers the professional context that social workers practise within. This includes an examination of the youth justice system and the process a young person who commits an offence goes through, from arrest to sentence. We will look at the role of each of the key agencies in the youth justice system: the police, Crown Prosecution Service (CPS), courts and secure estate. The role and function of the multi-agency YOTs will also be explored, including each of the main professionals: social workers, probation officers, police officers and education and health officers. It will consider some of the issues social workers face when working within the same team as a wealth of other different professionals.

Chapter 6 focuses on the purpose, nature and process of assessment within youth justice. The assessment tool, Asset, used by YOTs is discussed and the interrelation between Asset and pre-sentence reports (PSRs) and risk assessments is considered. The chapter also looks at the relationship between Asset and the Common Assessment Framework introduced by the 2004 Children Act.

Chapter 7 addresses the different types of work that YOT social workers undertake with young people who have offended or are at risk of offending. This will include issues of diversity, equality and working with difference. This chapter considers the importance of planning, reviewing, ending and evaluating interventions with young people and the frameworks in place for achieving this, all of which follow from assessment. Finally, consideration is given to the different approaches to working with young people, such as one-to-one work, group work and restorative justice.

Chapter 8 considers the role of the social worker working with parents and carers of young people who offend. The chapter also focuses on working with volunteers in the youth justice system and the potential challenges this presents to practitioners. Finally the chapter addresses the role of victims of crime within youth justice and considers how social workers balance the needs of young people while acknowledging the issues facing victims in restorative justice interventions.

Chapter 9 examines three key areas relating to effective future practice as a youth justice professional: transferable skills, continuing professional education and the possibilities for future legislation in the youth justice arena. As a youth justice practitioner you will become aware that laws and procedures are regularly subject to change. In order to face the challenges of change within your professional environment, you must keep abreast of contemporary policy debates, reports, reviews and proposals. This chapter informs you of future proposed reforms and of ways of keeping on top of professional and legal changes.

Throughout the book, each chapter refers to the relevant National Occupational Standards and subject benchmark statement for social work and contains activities, case studies and research summaries to assist you in reflecting upon your values, beliefs and practice with young people who offend.

Chapter 1

Values and ethics in youth justice social work

by Paul Dugmore, Jane Pickford and Sally Angus

A C H I E V I N G A S O C I A L W O R K D E G R E E

This chapter will help you begin to meet the following National Occupational Standards.

Key Role 6: Demonstrate professional competence in social work practice.

- Work within agreed standards of social work practice and ensure own professional development.
- Manage complex ethical issues, dilemmas and conflicts.

It will also introduce you to the following academic standards as set out in the social work subject benchmark statement:

3.1.1 Social work services and service users

- The social processes (associated with, for example, poverty, unemployment, poor health, disablement, lack of education and other sources of disadvantage) that lead to marginalisation, isolation and exclusion and their impact on the demand for social work services.

3.1.3 Values and ethics

- The nature, historical evolution and application of social work values.
- The moral concepts of rights, responsibility, freedom, authority and power inherent in the practice of social workers as moral and statutory agents.
- The complex relationships between justice, care and control in social welfare and the practical and ethical implications of these, including roles as statutory agents and in upholding the law in respect of discrimination.
- Aspects of philosophical ethics relevant to the understanding and resolution of value dilemmas and conflicts in both interpersonal and professional contexts.
- The conceptual links between codes defining ethical practice, the regulation of professional conduct and the management of potential conflicts generated by the codes held by different professional groups.

3.2.2 Problem-solving skills

- Analyse and take account of the impact of inequality and discrimination in work with people in particular contexts and problem situations.

3.2.3 Communication skills

- Communicate effectively across potential barriers resulting from differences (for example, in culture, language and age).

3.2.4 Skills in working with others

- Act with others to increase social justice by identifying and responding to prejudice, institutional discrimination and structural inequality.

Introduction

This chapter explores the concept of social work values and ethics and their application to work with children and young people who offend. The first part of the chapter provides a detailed look at the values and ethics underpinning social work practice and the regulatory bodies that ensure the transmission of values and ethics to social work practice. Later in the chapter there is reference to the legislative and policy framework that promotes the ethical base of social work practice and also the rights of children and young people. The remainder of the chapter considers the application of social work values to practice and potential ethical dilemmas facing social workers in their practice with children and young people who offend.

So exactly what do we mean by values and ethics? The *Collins English Dictionary* defines values as 'the moral principles or accepted standards of a person or group' and defines ethics as 'a code of behaviour considered correct, especially that of a particular group, profession or individual' (1993). As individuals we have our own set of values, which are informed by our own beliefs and those of our family and friends. Different professions may not share the same value base and in the case of youth justice, there are a number of different professions, all sharing the same 'client base' (Yelloly and Henkel, 1995), but all having a different value and ethically based practice. These clashes of values were identified in the evaluation of the pilot YOTs. Researchers found that youth justice staff had difficulty in transferring 'philosophically and practically' to the newly formed Youth Offending Teams (Holdaway et al., 2001, p6).

Values and ethics are fundamental components of social work practice. Reference to values and ethics are integral to social work training and feature prominently within the regulatory framework for social work. Detailed below are a number of documents relating to social work practice, all of which address the application of social work values and ethics as fundamental to social work practice. All those working in social care, including youth justice, are required to work to standards set down by the General Social Care Council (GSCC).

What is the GSCC?

The General Social Care Council is the 'workforce regulator and guardian of standards for the social care workforce in England' (www.gsc.org.uk). The GSCC was established in 2001 under the Care Standards Act 2000 and is responsible for regulating social work education and training and maintaining the social care register.

GSCC Code of Practice

In 2003 the GSCC published the Code of Practice for both employers and employees to contribute to the raising of standards in social care services. The codes comprise a list of statements that define the standards of professional conduct required of all practitioners working within social care. The six standards relating to employees are:

- Protect the rights and promote the interests of service users and carers.
- Strive to establish and maintain trust and confidence of service users and carers.

- Promote the independence of service users while protecting as far as possible from danger or harm.
- Respect the rights of service users, while seeking to ensure that their behaviour does not harm themselves or other people.
- Uphold public trust and confidence in social care services.
- Be accountable for the quality of your work and take responsibility for maintaining and improving your knowledge and skills.

As you can see, there is a clear expectation that social work practitioners are required to work with service users in a way that is principled, honest and conscientious – in other words in an ‘ethically’ legitimate way.

GSCC registration

As from 1st April 2005 all qualified social workers are required to register with the GSCC. All practising social workers have to register and there are no exemptions or exclusions. Under Section 61 of the Care Standards Act 2001 it is a criminal offence for an unregistered person to use the title ‘social worker’ with the intent to deceive. Doing so is a criminal offence and carries the sanction of a fine of up to £5000. Initially, registration was only mandatory for qualified social workers, but this requirement has now been extended to other groups of social care workers and social work students.

Social work training

The GSCC is also responsible for regulating the education and training of social workers. Training is undertaken at either undergraduate or postgraduate level and has both academic and practice elements. All students will be expected to demonstrate competence across all the National Occupational Standards.

What are the National Occupational Standards?

They are six key roles that ‘set out what employers require social workers to be able to do on entering employment’ (Department of Health, *Requirements for social work training*, 2002). They were drawn up by the Training Organisation for the Personal Social Services (TOPSS, now called Skills for Care) and effectively provide a ‘benchmark of best practice’ in social work competence. The standards were developed and informed by the *Statement of Expectations* (TOPSS, 2002) which was compiled in consultation with service users and carers.

These key roles are:

- Prepare for, and work with individuals, families, carers, groups and communities to assess their needs and circumstances.
- Plan, carry out, review and evaluate social work practice, with individuals, families, carers, groups, communities and other professionals.

- Support individuals to represent their needs, views and circumstances.
- Manage risk to individuals, families, carers, groups, communities, self and colleagues.
- Manage and be accountable, with supervision and support, for your own social work practice within your organisation.
- Demonstrate professional competence in social work practice.

When you undertake your 200 days of assessed practice learning, it is against these standards that you will be assessed to demonstrate that you are competent to practise as a social worker.

Values and ethics

Included in the National Occupational Standards are a set of values and ethics that are central to, and underpin, the six key roles that make up the National Occupational Standards. Social work students must be able to critically analyse and evaluate their practice in relation to the six core values and ethics listed below:

- Awareness of your own values, prejudices, ethical dilemmas and conflicts of interest and their implications on your practice.
- Respect for, and the promotion of:
 - each person as an individual;
 - independence and quality of life for individuals, while protecting them from harm;
 - dignity and privacy of individuals, families, carers, groups and communities.
- Recognise and facilitate each person's use of the language and form of communication of their choice.
- Value, recognise and respect the diversity, expertise and experience of individuals, families, carers, groups and communities.
- Maintain the trust and confidence of individuals, families, carers, groups and communities by communicating in an open, accurate and understandable way.
- Understand, and make use of, strategies to challenge discrimination, disadvantage and other forms of inequality and injustice.

So you can see that your ability to practise in a way that is grounded in a strong, ethical value based framework will be crucial to your development as a good social worker.

QAA benchmark statement

Training for social work is monitored by the Quality Assurance Agency for Higher Education (QAA) and sets out academic standards for social work. The social work benchmark refers to social work as a 'moral activity' that requires students to potentially make and implement decisions that may be difficult and which may 'involve the potential for

benefit or harm' (QAA, 2001, 2.4). The QAA states that programmes offering the social work degree should include the study of the 'application of and reflection upon ethical principles' (2.4). In terms of subject knowledge in relation to values and ethics, the QAA states that during their degree studies in social work, students should 'critically evaluate, apply and integrate knowledge and understanding' to:

- The nature, historical evolution and application of social work values.
- The moral concepts of rights, responsibility, freedom, authority and power inherent in the practice of social workers as moral and statutory agents.
- The complex relationships between justice, care and control in social welfare and the practical and ethical implications of these, including roles as statutory agents and in upholding the law in respect of discrimination.
- Aspects of philosophical ethics relevant to the understanding and resolution of value dilemmas and conflicts in both interpersonal and professional contexts.
- The conceptual link between codes defining ethical practice, the regulation of professional conduct and the management of potential conflicts generated by the codes held by different professional groups. (3.1.3).

In this chapter we consider a number of issues that may challenge the values that underpin the National Occupational Standards and the ethical principles that are integral to the QAA benchmark statement. Your role as a social worker within a youth justice setting presents you with an array of standards and principles that may appear to conflict with each other. As already mentioned, the GSCC requires all practitioners to work to a code of practice. However, in addition to this there is the BASW code of ethics.

British Association of Social Workers

Many qualified social workers belong to the British Association of Social Workers (BASW). This is one of the largest professional organisations allied to social work practice in the UK. Part of the role of BASW is to ensure that its members 'discharge their ethical obligations and are afforded the professional rights which are necessary for the safeguarding and promotion of the rights of service users' (www.basw.co.uk).

BASW produce a code of ethics, which consists of a set of five basic values and six principles to guidance on ethical practice. The values are:

- Human dignity and worth
- Social justice
- Service to humanity
- Integrity
- Competence

The principles are:

- Respect basic human rights as expressed in the United Nations Universal Declaration of Human Rights and other international conventions derived from that Declaration.

- Show respect for all persons, and respect service users' beliefs, values, culture, goals, needs, preferences, relationships and affiliations.
- Safeguard and promote service users' dignity, individuality, rights, responsibilities and identity.
- Foster individual well-being and autonomy, subject to due respect for the rights of others.
- Respect service users' rights to make informed decisions, and ensure that service users and carers participate in decision-making processes.
- Ensure the protection of service users, which may include setting appropriate limits and exercising authority, with the objective of safeguarding them and others.

Social workers are, therefore, subject to several guiding standards: the GSCC Code of Practice, the values and ethics within the National Occupational Standards, the guiding values and principles of BASW. In addition, social workers working within a YOT are required to work to the *National Standards for youth justice services* (YJB, 2004a).

National Standards for youth justice

The National Standards for youth justice services are set by the Home Secretary and issued by the Youth Justice Board. The standards provide a basis for promoting good practice with children and young people who offend, as well as their families and victims. Like the National Occupational Standards for social work, they provide a benchmark against which the effectiveness of work can be measured. They provide a minimal level of service for those working within the youth justice services. There are ten key National Standards that practitioners should adhere to:

- 1 Set clear requirements for supervision, which include quality of work, frequency of contact and response to non-compliance.
- 2 Help to speed up court processes so that sanctions against offending will be experienced more immediately.
- 3 Improve the effectiveness of information sharing and exchange.
- 4 Ensure that the victims of crime are central to restorative processes and their needs are respected.
- 5 Prioritise the protection of the public from re-offending and harm, and increase public confidence in the delivery of youth justice services.
- 6 Ensure that Youth Offending Teams and secure establishments take a lead in the planning and provision of services designed to prevent offending by children and young people, such as education, training and health, which the Crime and Disorder Act 1998 and other legislation requires to be in place locally.
- 7 Require that all interventions are delivered fairly, consistently and without improper discrimination, in a way that values and respects the cultural and racial diversity of the whole community.

- 8 Require Youth Offending Teams and secure establishments to measure the effectiveness of their performance and report on outcomes to the Youth Justice Board.
- 9 Set out standards for the running of secure establishments.
- 10 Require that Youth Offending Teams and secure facilities ensure exchange of information relating to young people in custody within prescribed timescales, and that work begun in custody is carried on following release.

ACTIVITY 1.1

The National Standards make reference to processes; for example, number 2 refers to the importance of speeding up the youth justice process. Is this at odds with the values and ethics that underpin the National Occupational Standards for social work?

Should, for example, the welfare of the child be at the forefront of your practice or should we deal with youth offenders more speedily? Is it possible to do both?

Victims of crime

While the main focus of social work intervention is direct work with children and young people who offend, practitioners may also have some contact with victims of these offences. The National Standards for Youth Justice Services make reference to work with victims, ensuring that their needs are respected in restorative processes. This area of work may be very new to many working in youth justice, and working with victims may present a challenge to practitioners. Historically, services for victims of crime have been provided by the voluntary sector and this is still the case today. Victim Support is the largest charitable organisation providing support to victims of crime, although there are many smaller agencies offering support to victims of specific crimes such as Rape Crisis and Women's Aid. In its policy report of 1995, *The Rights of Victims of Crime*, Victim Support set out five main principles for those working with victims within the criminal justice system:

- To be free of the burden of decisions relating to the offender.
- To receive information and explanation about the progress of their case, and to have the opportunity to provide their own information about the case for use in the criminal justice process.
- To be protected in any way necessary.
- To receive compensation.
- To receive respect, recognition and support.

In 1990 the government published the first Victim's Charter, which set out the service victims of crime should expect from those agencies represented in the criminal justice system. This was superseded in 1996 with a second charter, effectively an updated version of the 1990 charter but with a commitment to 'provide better information' for victims. In December 2005 the government published *The Code of Practice for Victims of Crime* (Home Office, 2005a) which was issued under Section 32 of the Domestic Violence, Crime and Victims Act 2004. After a number of amendments, the Code was finally implemented in April 2006.

The Code of Practice defines public expectations for those services in England and Wales working within the criminal justice system, including Youth Offending Teams. It effectively represents a minimum standard of service to victims involved in the criminal justice system. The GSCC Code of Practice refers to the importance of protecting the rights and promoting the interests of service users. Within youth justice, clearly the service user is the young person. However the Victims' Code of Practice requires all practitioners in the criminal justice system, including those in a YOT, to 'take account of victims' needs' (Home Office, 2005a, p14).

The nature of social work is such that there will always be issues around values and ethics, including your own values. However, there is a clear and explicit message for professionals working within social care reinforced by training, agency policy and regulatory bodies: you must reflect on 'how' you work with service users and consider how your values and beliefs may impact on work with service users. In a youth justice setting we mean children and young people who offend and those who are affected by those actions, including their families as well as the victims.

ACTIVITY 1.2

Take a look at the GSCC Code of practice for social care workers and the National Standards for youth justice services and consider the differences as well as the similarities between the two.

The interface between law and ethics

International obligations: human rights and youth justice

In this section we consider our youth justice system in relation to international legislation and conventions, as well as examining how it may stand up to the provisions of our own Human Rights Act 1998. Is the way we treat young people who come into contact with the criminal justice system comparable to juvenile justice systems in other legal cultures? How well do we fare when we scrutinise our brand of youth justice and test its compliance with international legal requirements? We analyse how the implementation of human rights legislation into our domestic law should have impacted upon our practice of youth justice. Do some of the practices introduced by recent youth justice legislation breach fundamental principles of human rights?

But first we must examine international law on the rights of the child and the many protections that have developed over the past two decades. Some countries have taken international provisions on requirements in relation to youth justice systems more seriously than others. How does our system fare when we put it to the test of international conventions? Have we developed a child-oriented system when we deal with young people who are accused of breaching our criminal law?

International human rights law should offer protections for young offenders, if provisions are adhered to at a domestic level. You should be aware of them to check whether procedures your client has been subject to might be in breach of these safeguards. The most significant examples include:

- United Nations Convention on the Rights of the Child (1989).
- United Nations Rules for the Administration of Juvenile Justice (1985) (Beijing Rules).
- United Nations Rules for the Protection of Juveniles Deprived of their Liberty (1990b).
- United Nations Guidelines for the Prevention of Juvenile Delinquency (1990a) (Riyadh Guidelines).

and also:

- Article 5 of the European Convention on Human Rights – the right to liberty and security (now part of our Human Rights Act 1998).
- Article 6 – the right to a fair trial (now part of our Human Rights Act 1998).
- International Covenant on Civil and Political Rights (ICCPR) (1966) – Article 14 (4): ‘ . . . in the case of juvenile persons, the procedure shall be such as will take account of their age and the desirability of promoting their rehabilitation’.

The most far-reaching is the Convention on the Rights of the Child; this is due to its binding character and the fact that it has been ratified by 191 states/countries (the USA and Somalia have not ratified this Convention).

Article 40 is one of the most significant parts. It states that:

State Parties recognise the right of every child alleged as, accused of, or recognised as having infringed the penal law to be treated in a manner consistent with the promotion of the child's sense of dignity and worth . . .

This includes minimum due process guarantees, including:

- The presumption of innocence.
- The right to be informed promptly of the charges against him or her.
- The right to have legal assistance in the preparation of his or her defence.
- The right to be tried without delay by a competent legal authority.
- A requirement to set a reasonable minimum age of criminal responsibility.
- The need to provide non-judicial methods of dealing with children in conflict with the law.
- The need to establish alternatives to institutional care.

These provisions are supplemented by Article 37, which prohibits the death penalty and life imprisonment without the possibility of release. Article 37 also requires that imprisonment ‘shall be used as a measure of last resort’ and where children are imprisoned it must be for the shortest possible period of time.

Article 39 requires the countries to promote physical and psychological recovery and reintegration of child victims.

The Convention also has general principles, which should be considered in addition to specific principles. These include:

- All procedures should be in the best interests of the child (Article 3).
- Judicial bodies/tribunals must take into account the evolving capacities of the child (Article 5).
- Judicial bodies/tribunals must give due weight to the views of the child (Article 12).
- Procedures must be free of discrimination (Article 2).

The Human Rights Act 1998

The Human Rights Act 1998 came into force in October 2000. This Act in effect incorporates the European Convention on Human Rights into domestic law so that all current and planned legislation must be implemented in a manner consistent with the rights and freedoms set out in the Convention. Additionally, the Act includes the adoption into domestic law of the United Nations Convention and linked protocols including (very significantly from a youth justice standpoint) the Beijing Rules (the United Nations Standard Minimum Rules for the Administration of Juvenile Justice 1985).

Has the inclusion of these international provisions affected the practice of youth justice in this country? Could legal challenges be mounted under the Human Rights Act about the way we treat young people who are deemed to be anti-social or who are suspected of or convicted for a criminal offence? You should be aware of these protections in your work with clients and be prepared to challenge any breaches.

In 1999 the European Court of Human Rights, in the case of Thompson and Venables (the killers of toddler James Bulger), even prior to the implementation of the Human Rights Act ruled that:

- The process in the Crown Court was unfair because it was unsuitable for the two defendants (aged 11 at the time) in that it was intimidating and incomprehensible for the boys.
- Sentencing should be left to judges to decide and recommendations should not be overruled by politicians (the boys were originally sentenced to eight years by the trial judge; this was raised to ten years by the Lord Chief Justice and then to 15 years by Michael Howard, the then Home Secretary).
- Decisions about release should not be decided by the Home Secretary but by an independent judicial body such as the Parole Board.

As a result of the ruling in this case, in March 2000 Jack Straw handed over the decision on how long Thompson and Venables would remain in custody to Lord Bingham, the Lord Chief Justice. The sentencing of juveniles convicted of the gravest crimes will now be set by the Lord Chief Justice on a recommendation of the trial judge.

It is noteworthy that the European Court's ruling regarding Crown Courts being unsuitable places for dealing with young people (the Crown Court is essentially an adult court) has been ignored by the Labour Government. Young people who are alleged to have committed serious offences are still tried in this unsuitable and confusing environment. Since October 2000, however, young offenders do not have to go to Strasbourg to obtain such rights. The implication seems clear: children should not be subject to adult court procedures. Changes must be made to the system of trial of children and young suspects in the crown court, especially those at the youngest end of criminal responsibility (i.e. 10 to 13 year olds).

The above decision highlights how the government can be challenged for breaches of human rights and international protections in relation to young offenders. There are other possible breaches that could impact upon your social work practice in advising young people and their parents. Further challenges that could possibly be taken in relation to the provisions in the Crime and Disorder Act 1998 and the Youth Justice and Criminal Evidence Act 1999 include:

- *Anti-social behaviour orders (ASBOs), anti-social behaviour contracts (ABCs) and local child curfews.* A magistrate can order an anti-social behaviour order in respect of any person over the age of 10. The police, in conjunction with the local authority, make the application for an ASBO. The local authority can also impose ABCs on young people (and adults) before an ASBO application is made. Young people may feel pressurised to accept the terms of an ABC, for fear that a formal ASBO application might be made to the court if they decline. (See Chapter 4 for more information about ASBOs and ABCs). Although an ASBO is civil in nature, its breach can involve criminal sanctions. Such an order can now be made for beyond the original two year limit and its potential for constituting an intrusion of individual and family privacy seems clear. Furthermore, the local child curfew, which can be imposed on a group of children under the age of 10 for an extendable period of 90 days, appears similarly intrusive. As with the anti-social behaviour order, no criminal behaviour need be proved before a curfew is imposed.

It is noteworthy that Alvaro Gil-Robles, the Human Rights Commissioner for the Council of Europe, alleged in his report in June 2005 that the UK was suffering from 'asbomania'. Also, Shami Chakrabarti, the current director of Liberty, when asked to comment on the practice of some local authorities to 'name and shame' young people subject to ASBOs said that this practice was: 'More akin to the medieval stocks than a 21st century law and order strategy. We are in danger of transforming Britain into Asboland' (*Observer*, 12 June 2005).

Recently, successful challenges have been mounted by individual 'defendants' to allegedly unreasonable ASBO restrictions. In May 2005, a 16 year old from Collyhurst Village near Manchester became the first person to be banned under an ASBO from wearing a hooded top. However, in August 2005 a youth in Portsmouth, who was banned from wearing a hooded top or a baseball cap under the terms of an ASBO, had this part of the order set aside by a district judge when his solicitor successfully argued that this restriction breached his human rights. Similarly, in July 2005 the High Court backed a 15 year old's claim that ASBO powers that sanctioned the police to remove him from curfew zones breached the Human Rights Act in that it unreasonably interfered with his freedom of movement.

- *Article 8 of the European Convention on Human Rights, which is incorporated into domestic law by the Human Rights Act 1998, states that every person has the right to respect for their individual, private and family life, unless an intrusion is necessary for (among other things) the prevention of crime. It may be difficult to justify severe restrictions on the liberty of a child who has not yet been convicted of committing any criminal act. Article 8 may also cover situations where a young person has been remanded into local authority accommodation and, due to shortage of specialised places (especially of secure accommodation), they are placed some considerable distance from their family, possibly for a number of months while awaiting trial.*
- *Article 6 of the Convention covers the right to a fair trial: possible issues arising under this provision are threefold.*

First, it has been noted earlier that criminal sanctions can be applied for breaches of civil orders under the Crime and Disorder Act 1998 (e.g. anti-social behaviour and local child curfews). For a civil order to be made, the standard of proof is on the balance of probabilities – a much lower standard than the criminal law requirement of proof beyond reasonable doubt. Furthermore, parental bind-overs are deemed to be civil in nature and criminal sanctions can accrue for breach. Additionally, the referral order established by the Youth Justice and Criminal Evidence Act 1999 enables a court to refer a young person to a Youth Offender Panel, a body outside the 'official' criminal justice system, where there is no right to legal representation, yet which is authorised to pass criminal sanctions. Arguably, as such provisions and procedures are either in reality criminal in nature or have criminal consequences, they legitimately fall into the ambit for scrutiny by Articles 6 and 8 of the Convention (particularly as no rights of appeal are set out in either the Crime and Disorder Act 1998 or the Youth Justice and Criminal Evidence Act 1999).

Second, Section 35 of the Crime and Disorder Act 1998 permits an adverse inference to be drawn from a defendant's silence at interview or trial stage: this provision now applies from the age of ten. Article 6, in its assertion of the presumption of innocence and the right to a fair procedure, arguably sits uneasily with Section 35 in relation to young suspects. Also, it can perhaps be implied that Article 6 requires that an appropriate adult be present when the young person is cautioned, so that they can be properly instructed as to the full implications of their silence.

The third possible challenge in relation to Article 6 concerns reprimands and final warnings under Section 65 of the Crime and Disorder Act 1998. Issues about proportionality in relation to such sanctions, coupled with the continued debate about the possibility that young people, in eagerness to rid themselves of any further involvement with the criminal justice process, may confess to things they might not be found guilty of in a court of law, may be open to question in relation to fairness of procedure. Additionally, any failure to co-operate with the requirements of a final warning may result in the breach being cited in court and possibly lead to a harsher sentence being given in any future court appearances.

- *Article 3 of the European convention covers the prohibition of torture, which includes degrading treatment or punishment. Linked to this, the Beijing Rules state that when a young person is sentenced it should amount to a 'fair reaction' – in other words, it*

should adhere to the principle of proportionality. It could possibly be argued that the Crime and Disorder Act 1998 implicitly sanctions the use of deterrent sentences in order to dissuade others from certain behaviours and that such sentences may, therefore, fall foul of the Human Rights Act 1998.

- *The consequences of being a young person refused bail.* This may mean that their relationship with their parents is severely affected. In an adversarial process where there may have been only a short time to respond to an application to refuse bail, the parent may not be involved at all in the decision-making process. Certain decisions to refuse bail may possibly breach Article 8 (noted above) and Article 5 of the Convention, which covers the right to security and liberty.

So it appears that there is potential for a number of challenges to our youth justice system that could be mounted under the Human Rights Act. The Youth Justice Board, lawyers representing young offenders and Youth Offending Teams should perhaps have made such challenges a priority but unfortunately we still await the testing of many of these possible Human Rights Act breaches. As a well-informed, proactive practitioner, you must be aware of any potential challenges.

The National Association of Youth Justice: the philosophical base

The National Association of Youth Justice (NAYJ) reflects many of the guiding principles of youth justice set out in international treaties and human rights legislation in their statement of basic philosophy (see www.nayj.org.uk for the full list of guiding principles). Their starting point is reminiscent of the 'welfare principle' that has been enshrined in our law relating to the treatment of young offenders since 1933. Section 44 of the Children and Young Persons Act 1933 states that when dealing with a young person the court shall 'have regard to the welfare of the child or young person and shall in a proper case take steps for removing him from undesirable surroundings or for securing that proper provision is made for his education or training'.

The NAYJ philosophy states from the outset that the welfare of the young person is paramount in proceedings and that a young person being dealt with by the criminal justice system must be regarded 'first and foremost' as a 'child'. The Association's second statement of belief specifically states that 'The establishment, application and protection of children's rights within national and international law and convention is essential'.

To summarise this section, international legal regulations, NAYJ principles and human rights legislation seem to afford extra layers of protection for children and young people who come before our criminal justice system. However, the extent to which our youth justice system conforms to the letter of these requirements should be a matter for continued investigation and legal challenge by professionals within the youth offending system.

ACTIVITY 1.3

Legal case study

Karim (aged 12) and Simon (aged 11) decide not to return to school after lunchtime but instead go to their local shopping mall in Kenchester. They enter Woolworths and Simon suggests that they steal some sweets from the pick 'n' mix counter. While they are stuffing confectionery into their rucksacks, Ken, a security guard, approaches them and asks them to open their bags. Karim complies with this request and reveals the chocolate he has stolen. Simon refuses to open his bag, and when Ken tries to take it from him Simon takes a baseball bat from the side pocket of the bag, hits Ken on the head and runs out of the shop. The police are called and Simon is apprehended while running from the shopping centre and arrested. Karim is also arrested and both boys are taken to the police station for questioning. Ken goes to hospital suffering from a split lip and a broken nose.

Simon is charged with grievous bodily harm (under Section 20 of the Offences Against the Person Act 1861) and theft (under S1 of the Theft Act 1968) and Karim is charged with theft.

As Karim already has a previous final warning for another matter of shoplifting six months earlier, Kenchester Youth Court sentence him to a four-month referral order. At the Youth Offender Panel meeting, the panel state that Karim must sign a contract that requires him to attend community reparation sessions for six hours every other Saturday for the duration of the order. In addition he must attend two one-and-a-half hour meetings with the YOS worker on Mondays and Wednesdays at 2.30 p.m. Karim's mother tells the panel that this will interfere with his school attendance, his extra-curricular sports activities, his homework time and family social time and that she feels that the requirements seem to be quite harsh for the theft of sweets worth £2.50. The panel tell Karim's mother that if he does not sign the contract the matter will be referred back to court for non co-operation and that if this happened Karim could be sentenced to a custodial sentence. Reluctantly, Karim signs the contract. After the court hearing the police and the local authority successfully obtain an ASBO on Karim that bans him from the shopping mall and from anywhere within a two-mile radius of the mall, and prevents him from wearing a hooded top. Karim usually attends a youth club half a mile from the mall on Friday evenings. Also, Karim was scalded as a child and is embarrassed of a large red scar on his neck. He regularly wears hooded tops to cover this mark.

Simon, who has previous convictions for shoplifting and robbery of a mobile phone, has learning difficulties. He initially goes to the Youth Court, but as the injuries to Ken were serious his case is referred to the Crown Court. He is refused bail as it is argued by the prosecution that he is a persistent offender, that this is a serious offence and that he might offend again. As there are no secure remand placements in Kenchester, he is placed in a centre in Durham, 300 miles away from his family. As his parents are on benefits, they can't afford to go to see him. The trial takes place six months later. At the trial, Simon is very worried and confused. He tells his lawyer that he doesn't understand the legal jargon or the procedure.

Advise Karim and Simon regarding legal challenges that might be brought in relation to any possible breaches of their rights.

As a practitioner dealing with these youths the issues that you might raise include:

Regarding Karim

- Karim's referral order seems to breach Article 6 of the European Convention on Human Rights (ECHR) as it is questionable whether he has had a fair hearing and there is no appeal.
- The level of restriction in the referral order on his liberty seems to breach Article 3 of the ECHR as it arguably is not a 'fair reaction' to the crime, as is required.
- The many requirements of the referral order arguably breach Article 8 of the ECHR as they seem to unnecessarily interfere with his private and family life, preventing him from undertaking his educational, sporting and social activities.
- In relation to Karim's ASBO, this is a civil order and if he breaches it he could receive a criminal sanction. This too is possibly a breach of Article 6, above.
- There have been some recent successful court challenges in relation to very restrictive ASBOs that the courts have held have breached the human rights of recipients. The two-mile radius ban and the subsequent impact upon his attendance at the youth club is arguably unreasonable, given the nature of the offence and that he has no other record of anti-social behaviour. The hooded top ban is also possibly a breach of his human rights.

Regarding Simon

- His placement in Durham is possibly in contravention of Article 8 of the ECHR as it interferes with his private and family life.
- The length of detention is also an issue under Article 8 as this is a young man who is on remand and has not yet been convicted of the offence.
- As Simon is only 11 years old and finds the trial in the Crown Court (an adult court) confusing, this seems to contravene one of the decisions of the European Court of Human Rights in *Thompson and Venables* [1999] which stated that a Crown Court was an unsuitable place for the defendants (who were aged 11 at the time of the case) to be tried.

The dual agenda of youth justice and social work: justice vs welfare

Are young people who come before the criminal justice system offenders, who have chosen to break society's rules and so deserve to be punished, or are they (as the Children Act 1989 asserts) children 'in need'? Should we expect them to take full responsibility for the consequences of their actions or should we view them as being less capable than adults of understanding and sticking to the rules of society? Should they be dealt with in the same courts as adults and be eligible to the same punishments, or should they be dealt with by specialist courts and personnel who have been trained to understand and remedy their needs? Should there be a wider range of disposals available to judges and magistrates who deal with young offenders than there is for adult offenders? Should we

help and guide young people to move away from law-breaking behaviour or should we provide an optimum deterrent in the form of commensurate punishment? Should we punish the young offender's crime or the young offender himself/herself? These are just some of the questions that highlight the dilemmas facing those who structure and work within the youth justice system and form part of what youth justice theorists and practitioners call the 'justice vs welfare' debate. These two approaches have dominated youth justice philosophy for a hundred years and though other valid perspectives have been developed (we will examine these in Chapter 2) the justice vs welfare debate still rages in academic, media, governmental and professional practice fields.

The introduction of a distinct system for dealing with young offenders in 1908 represented, in essence, a 'modification' of adult justice – a 'compromise' which resulted in the cross-fertilisation of principles of adult responsibility with notions of welfarism and protectionism. A justice approach, based upon classicist ideas of culpability and responsibility, would involve a strict legal due process system, which sentenced using notions of proportionality and seriousness, providing a sanction that befitted the offence, rather than the offender. A welfare-based approach would involve a less formal and adaptable procedure, one that would conceptualise the offending behaviour, allow for mitigation and a recognition of the possibility of limited responsibility (part of neo-classicism), and allow for non-legal experts to enter the decision-making process and produce a disposal that would fit the offender, rather than the offence. The Children Act 1908 effectively opened up the possibility of these two styles being blended (or possibly muddled) in the context of dealing with young offenders.

This early discovery of the potential of conflict between the polemic welfare vs justice dichotomy was to produce various forms of compromise solutions over the course of the century. We examine in detail these philosophies, legislative developments and features of systems based on principles of justice and those based on principles of welfare in Chapter 2.

As a youth justice practitioner, you will become familiar with the dilemmas between justice and welfare approaches. Primarily, your social work training will have taught you to regard the best interests and welfare of the young person you are working with as paramount considerations. You will soon be aware that in youth justice, while the law sometimes protects and supports those interests (such as in relation to international and human rights protections outlined above), often the application of law conflicts with your guiding social work ethics. For example, you might view a young offender as primarily a child in need and feel that community intervention and offence counselling might be the best way to deal with a troubled young person who is 'acting out' through offending behaviour. Judges, magistrates and the police might have a different opinion and decide that the offence is serious and/or that the only way to protect the public is to put your client behind bars.

The conflict between social work ethics and legal principles is arguably more tangible in the practice of youth justice than in any other area of social work.

Using values and ethics in your practice

The vast array of standards, codes and legal frameworks can appear overwhelming for practitioners. How can you ensure your practice takes account of values and ethical issues in accordance with these? When working within youth justice it is important to consider how society views young people generally and young people who offend specifically. We all have personal views about young people and of what expectations are seen as the 'norm'. These may be based on our own experiences of adolescence, drawn from young people with whom we are in contact or from wider society.

ACTIVITY 1.4

Think about how you view young people. What assumptions do you make about them? What expectations do you have about young people? Are these different from the views, assumptions and expectations you have about young people who offend? Where do your views come from? Look for newspaper headlines about young people. What do they say? How are young people/offenders described? Are these views representative?

Your answers to the questions in this Activity will be determined by a range of factors; they may be partly as a result of your age, your experience of adolescence, how you feel about your own children or those of others in your family or network of friends. Your own experience of adolescence may be very different from young people in contemporary society and you may find it hard to empathise. You may have been positive in thinking about young people, describing them as lively, inquiring, exciting and fun. Your responses may have been neutral, such as innocent, naive and impressionable; or negative, such as rebellious, troublesome, argumentative and difficult.

Your responses will more than likely also be shaped by external factors such as the television, newspapers and social policy. Young people are often presented in negative ways by the media, particularly those involved in offending. Recently in the UK much attention has been paid by the government and the media to the rise of anti-social behaviour, particularly among young people. Various shopping centres and schools have gone so far as to ban young people from wearing 'hoodies' because some young people walk around in groups wearing them and a proportion of these young people allegedly commit crime. This has led to the government announcing a drive to put the 'respect' back into British society, introducing a raft of measures designed to combat 'yobbish' behaviour. It could be argued that another 'moral panic' is being created similar to that in the 1970s when the term 'mugging' was designed to describe street robberies, leading to the use of stop and search powers by the police. These powers effectively discriminated against black and minority ethnic people, who were stopped disproportionately by the police (Hall et al., 1978). The term 'moral panic' was coined by Cohen (1973) as a way of emphasising the media's role in amplifying crime and deviance, particularly in relation to youths. It seems ironic that youth crime is so high on the political agenda when recent Home Office figures and the British Crime Survey both show a decline in youth crime over the last few years (Home Office, 2005b). However, public opinion polls suggest that there is an erroneous belief that youth crime is increasing at an alarming rate (Bateman, 2005).

When working with young people who offend it is important to be aware of the attitudes and feelings you have about and towards them. It may be that you have pre-conceived ideas about how young people behave based on what you have learned from the news. Your views may be stereotypical and unfair representations of young people who offend who are, in reality, as diverse a group of people as any other. Young people are often discriminated against because of their age, with their behaviour often described negatively.

ACTIVITY 1.5

How might a young offender feel if the overriding picture that is painted of them by society is negative? What impact could this have on the offender and their behaviour?

Young people may internalise what they hear said about them and begin to think that society or adults only see or acknowledge 'bad' behaviour. This might lead them to think that anything else is not recognised. It may also create a divide between young people and adults that could exacerbate the problem. Adults may feel uncomfortable walking past a group of young people on the streets but how does this make law-abiding young people feel? Many young people involved in offending behaviour are likely to have issues of low self-esteem and the effects of labelling (as discussed in Chapter 3), only seek to exacerbate this. It is essential that young people are considered within life-course perspectives on adolescence, which take into account psychological, social and physical factors. As Crawford and Walker (2003, p71) state: 'For some young people, the challenges of adolescence result in choices, which lead to a number of problems, and some problems peak at this time.' Thus, social workers need to be aware of what kind of behaviour might be expected, taking into account the developmental stage they are at.

It is important as a social worker to be aware of the reasons you want to work with a particular service user group and what qualities and values are important in being able to work with that group. It may be useful to identify what you see as the opportunities of working within a youth justice setting as well as what some of the difficulties may be. Social work practice in this area can be extremely varied and could involve working with young people at risk of offending, those in trouble with the police for the very first time, right through to young people with significant criminal records who may have been convicted of extremely serious offences.

ACTIVITY 1.6

Read the following cases. How would you feel working with each young person? What might some of the moral/ethical issues be for you personally and professionally?

Imran, aged 16, has been charged with indecently assaulting his three-year old brother. He is not allowed to return home while the police investigation is undertaken. You have to liaise with the children and families team and work in partnership with his family to identify an appropriate placement for him.

ACTIVITY 1.6 *continued*

Sarah, aged 15, is in a local authority children's home as her mother has left the country and her father is in prison. She has committed numerous offences of burglary and you are writing the pre-sentence report for the court. The judge has indicated that Sarah is likely to receive a custodial sentence. When you discuss this with Sarah she breaks down in tears saying that if she goes into custody she will kill herself.

Andrew, aged 17, is serving a three-year custodial sentence. He is to be released in three months' time. He has nowhere to live on release and he does not want to engage in college, training or employment. He is content to sit around with his friends all day smoking cannabis.

Each of the cases requires quite different responses. You may find it difficult working with Imran as the abuse of children is always likely to provoke an emotional action. You have to remember that at this stage Imran has not been convicted and therefore it is only an allegation. However you may feel about an offence, it is your role to work with the young person and to see him or her as an individual who *may* have carried out an offence, rather than as an offender. Imran may be very scared about what is going to happen to him, about being separated from his family and being placed somewhere else. You will have to work with his family too, who will undoubtedly be finding the situation very difficult to deal with. The case may raise unresolved issues for you as an individual. You have to ensure that your practice is professional at all times despite the feelings this raises for you.

In cases such as Sarah's, you may feel helpless to stop young people like her having their liberty removed. You can only do what is within your power, and this would probably involve ensuring that your report for the court addresses all the difficulties that she has encountered. You will be required to assess her needs in order to make a proposal that will deal with the issues that caused her to offend, thereby reducing the risk she poses. It may be that the judge will still sentence Sarah to a period of detention and your role then would be to work with the secure establishment she is sent to so that she is closely monitored and any risk of harm is minimised.

Andrew's case illustrates the care and control aspect of social work practice in this area. You may think that at 17 Andrew is almost an adult and therefore capable of making decisions about how he is to live his life. However, as your role is to prevent him from re-offending and to look after his welfare, you need to work with his motivation levels and self-esteem as well as provide practical support around accommodation and education or employment. The reasons why he does not want to do anything may be related to how he feels let down by his family or because he does not have a stake in society.

Working with young people in the criminal justice system will evoke many different feelings in you and challenge your ethical and moral code of practice. It is important to be aware of how you feel about a particular case in order to know if it is impacting upon your practice. This is where reflective practice (Schon, 1983) is essential so that you can examine the decisions you have made and the actions you have taken in order to analyse the effect of these upon a case. Being able to relate theory to your practice is also an

important part of reflective practice. Supervision is one forum where these sorts of issues can be discussed with a manager, or you may choose to talk about cases with your colleagues. Ensuring you are undertaking continual professional development, in line with GSCC registration requirements, will assist you in developing new skills and knowledge, as will being informed by evidenced-based practice and considering new perspectives. These fundamental issues of good social work practice will be revisited throughout this book.

Discrimination

It is clear that young people as a group may be discriminated against based on the stereotypes that are held by individuals and society. Discrimination and oppression are often complex issues, with some young people facing multiple oppressions, for instance based on their culture and sex. Having an awareness of how oppression and discrimination manifest themselves is especially important in the youth justice system.

Anti-discriminatory practice

Thompson (2001) has developed a conceptual framework in order to understand how inequalities and discrimination feature in the social circumstances and interactions of service users. This is called the PCS analysis. The *P* refers to the personal or psychological level, *C* refers to the cultural level and *S* to the structural level. He suggests that all three levels overlap and that it is important to recognise that our views are partly individualised (*P*) but also shaped by our cultural world (*C*) and our experience of socialisation (*S*). That social workers are in a position to play an important role in practising in a way that seeks to redress and challenge discrimination is a point vehemently articulated:

Social workers occupy positions of power and influence, and so there is considerable scope for discrimination and oppression, whether this is intentional or by default. Anti-discriminatory practice is an attempt to eradicate discrimination and oppression from our own practice and challenge them in the practice of others and the institutional structures in which we operate. In this respect, it is a form of emancipatory practice. (Thompson, 2001, p34)

Thompson offers a useful theoretical framework for social work practitioners to develop the required 'skills, values and attitudes' necessary to practise in an anti-discriminatory approach.

According to Home Office statistical data produced in response to Section 95 of the Criminal Justice Act 1991, young people from minority ethnic backgrounds are over-represented within the criminal justice system (Home Office, 2005d). Section 95 of the Criminal Justice Act 1991 requires the Home Secretary to publish statistical data on race and gender with a view to helping the criminal justice system avoid discriminating on the grounds of race, gender or any other improper ground.

RESEARCH SUMMARY

*The Youth Justice Board, the organisation that oversees youth justice services in England and Wales, commissioned research to look at whether young people from minority ethnic backgrounds are differentially treated within the criminal justice system. The research examined how young people from minority ethnic backgrounds were dealt with compared to their white counterparts at each stage of the youth justice process. Eight YOTs were selected for the study and information was obtained on 17,054 cases involving males and females aged 12–17 over 15 months in 2001–02. The study, *Differences or Discrimination?*, found that there were considerable variations in the extent of over- or under-representation of particular ethnic groups in relation to the proportions served by the YOTs included in the study.*

The research found at various stages of the youth justice process differences in outcome in the treatment of people from different ethnic backgrounds as well as between males and females. Sometimes this was due to relevant variations in the cases; however, there were also differences consistent with 'discriminatory treatment'. These included:

- *A higher rate of prosecution and conviction of mixed-parentage young males.*
- *A higher proportion of prosecutions involving black young males.*
- *A higher probability that a black male would, if convicted in a Crown Court, receive a sentence of 12 months or more.*
- *A greater proportion of black and Asian males remanded in custody prior to sentence.*
- *A much greater proportion of mixed-parentage females who were prosecuted.*

The researchers concluded by stating that 'young black people were substantially overrepresented in the caseloads of the police, prosecutors, YOTs and the courts in relation to their numbers in the local population'. They voice 'considerable concern about whether there is always fair treatment of minority ethnic young people'. Moreover, they believe the evidence of the research to be consistent with 'a more complex phenomenon of justice by race and geography'.

(YJB, 2004a)

The *Differences or Discrimination?* study did not look at why such differences had occurred but this is clearly an area that needs to be explored. The researchers felt that there needed to be a concerted effort to understand the phenomenon of differential patterns within the youth justice system which could only be achieved by a detailed analysis of local sentencing practices, based on a careful analysis of case records and local crime rates, and on close observations of practices at all stages of the system.

Other research offers similar findings (Goldson, 2002; Wilson and Moore, 2004); however, the general view is that studies into discrimination levels within the youth justice system are few and far between. Kalunta-Crumpton (2005) suggests that given the increased incarceration of black and some other ethnic minority young people, there is a need for comprehensive ethnic monitoring of the use made by courts of the more punitive sanctions

available, custody in particular. Youth Offending Teams are now required to undertake a race audit and develop an action plan to address discrimination as a specific area on which their performance is measured, in accordance with the Race Relations (Amendment) Act 2000.

The other significant area of research into differential treatment within the youth justice system is in relation to sex. While offending rates by girls are swamped by those of their male counterparts, there is evidence to suggest they are rising, particularly in relation to the use of custody where the increase over the period 1992–2002 was as high as 600 per cent (NACRO cited in Bateman and Pitts, 2005). The Home Office has established a working party looking at the discrimination of women by the criminal justice system. Historically girls and young women have been treated differently by a system that has struggled to see them as anything other than mad or bad and in need of welfare services. Hudson (2002) suggests that the difficulties faced by girls in trouble are that they are perceived as emotional and more difficult to work with. She suggests that social workers need to view the girl's behaviour as a response to their oppression and a way of surviving, and that emotionality should be seen as a positive resource. Hudson suggests that the recent drive towards the justice model has meant that girls are being treated less along welfare lines; this could be pushing them up the sentencing framework quicker than boys. A common problem for YOTs is the inability to offer suitable programmes for girls because of the lower number of girls in the criminal justice system. This needs to be addressed if girls are to receive a fair service and one that meets their needs effectively. This issue is exacerbated in the case of black and ethnic minority girls.

There are other groups discriminated by and within the youth justice system, such as asylum-seekers, 'looked after' children and travellers. Social work practitioners need to be aware of the issues facing these groups when assessing for and providing services, as well as signalling their discrimination to other agencies within the youth justice system. Social workers also need to listen to the experiences of individuals from such oppressed groups in order to be able to empower them, work in partnership, seek feedback from them and evaluate their interventions to ensure their practice does not discriminate.

ACTIVITY 1.7

Read the following case studies and identify the significant issues.

Gemma is 15 years old and from a traveller family. She has been sentenced by the court for shoplifting offences. Her parents have not attended appointments with you and Gemma tells you that they will not be attending even though the court has ordered them to. Gemma does not attend school as her family want her at home looking after her younger siblings with her mother.

Andrei is 17 and from Eastern Europe. He has appeared in court having been arrested for attempted theft from a cashpoint. The court is considering whether to grant him bail and you are assessing his suitability. He tells you that he is homeless, has no family and came to the UK six months ago to seek asylum. When you ask him where he has been staying he is very evasive and will not disclose any information.

ACTIVITY 1.7 *continued*

John is 16 and lives in local authority accommodation. He is placed in a children's home in the local area on a temporary basis while a long-term placement is found. You are working with him while he is in the area. John has had six placements in the 18 months that he has been 'looked after'. While he attends his appointments with you, he is feeling very low and is not really engaging with you.

In Gemma's case you may have approached the issues from a legal perspective: her parents have been ordered to attend court, and in accordance with the Education Act 1988 Gemma has to be in education at the age of 15. Both issues carry consequences. However, you are working with Gemma who cannot be held responsible for her parents' behaviour. Alternatively you may have looked at the case from the perspective of assessing why Gemma is offending, and found that her non-school attendance and family may be seen to be contributing factors. In either approach it is essential that you meet her parents and explain the situation and try to gain an understanding of their situation. It may be that their previous contact with authorities has been negative and they are reluctant to engage as a result of this. Your local area may have specific services for travellers, including education provision, that you can put them in touch with for support.

Andrei's case might be best approached in a similar way, in that you do not know what he has experienced in his home country. His previous contact with authorities may also have been negative and he may well have experienced trauma of some kind. He could be in the UK as an unaccompanied minor with no adult care and supervision, he could be connected to a larger criminal group, or he could be an illegal immigrant. Whatever his situation, he is probably scared and confused about what will happen to him in a strange country. An interpreter will be needed to communicate with him if his English is not fluent, in order that he is made to feel at ease, his situation explained fully and as much information as possible obtained to ensure he is placed appropriately and given support.

John is probably feeling that he is not wanted as he is being moved about so often. You are probably one of many social workers and other professionals that he has had to speak to in that time. You need to acknowledge how he is feeling and let him talk about that. You can offer him support in your sessions and advocate on his behalf to the accommodating local authority so that permanent plans can be made as soon as possible. In any event, you need to have some idea about how long he is likely to be in his current placement as this will affect what provision you can put into place around his education, leisure etc. It may be that John is offending as a result of being in care and this is something you could work with him on.

C H A P T E R S U M M A R Y

In this chapter we have identified the relevant frameworks setting out the expected conduct of workers within a youth justice setting and observed how values and ethics underpin social work education and practice. We have also considered the implications of the Human Rights Act and international guidelines in relation to working with young people who offend. You have explored your attitudes towards youth and young offenders and you have looked at your own prejudices as well of those of society at large. You have thought about what some of the ethical dilemmas may be in working with young people. The impact of the media and the affect that labelling may have on young people has been considered, as has the importance of being able to place young people according to their stage of life-course development. The issue of discrimination of young people within the youth justice system has been examined and the need for anti-discriminatory practice identified. It is essential that future practice is enhanced by the integration of theories of working with young people, young people in trouble as well as evidence-based best practice. Ensuring that this is done within the context of recognising and valuing difference and the impact that such differences have on young people is vital in becoming a fully reflective practitioner.

FURTHER READING



Youth Justice Board (2004) *Differences or discrimination?* London: Youth Justice Board.

Provides a full account of the research highlighted in this chapter.

Thompson, N (2006) *Anti-discriminatory practice, 4th edn*. Basingstoke: Palgrave Macmillan.

Provides a useful introduction to issues of discrimination, equality and diversity.

Monaghan, G (2005) Children's human rights and youth justice, in Bateman, T and Pitts, J (eds) *The RHP companion to youth justice*. Lyme Regis: Russell House Publishing.

WEBSITES



www.homeoffice.gov.uk/rds/section951.html.

For more information on statistical information in relation to ethnicity, gender and crime.

Chapter 2

The development of youth justice philosophies, laws and polices

Jane Pickford

A C H I E V I N G A S O C I A L W O R K D E G R E E

This chapter will help you begin to meet the following National Occupational Standards.

Key Role 6: Demonstrate professional competence in social work practice

- Review and update your own knowledge of legal, policy and procedural frameworks.
- Identify and assess issues, dilemmas and conflicts that might affect your practice.
- Assess needs, risks and options, taking into account legal and other requirements.

It will also introduce you to the following academic standards as set out in the social work subject benchmark statement:

3.1.1 Social work services and service users

- The social processes (associated with, for example, poverty, unemployment, poor health, disablement, lack of education and other sources of disadvantage) that lead to marginalisation, isolation and exclusion and their impact on the demand for social work services.
- The relationship between agency policies, legal requirements and professional boundaries in shaping the nature of services provided in inter-disciplinary contexts and the issues associated with working across professional boundaries and within different disciplinary groups.

3.1.2 The service delivery context

- The complex relationships between public, social and political philosophies, policies and priorities and the organisation and practice of social work, including the contested nature of these.
- The issues and trends in modern public and social policy and their relationship to contemporary practice and service delivery in social work.
- The significance of legislative and legal frameworks and service delivery standards (including the nature of legal authority, the application of legislation in practice, statutory accountability and tensions between statute, policy and practice).
- The significance of interrelationships with other social services, especially education, housing, health, income maintenance and criminal justice.

3.1.3 Values and ethics

- The moral concepts of rights, responsibility, freedom, authority and power inherent in the practice of social workers as moral and statutory agents.
- The complex relationships between justice, care and control in social welfare and the practical and ethical implications of these, including roles as statutory agents and in upholding the law in respect of discrimination.

- Aspects of philosophical ethics relevant to the understanding and resolution of value dilemmas and conflicts in both interpersonal and professional contexts.
- The conceptual links between codes defining ethical practice, the regulation of professional conduct and the management of potential conflicts generated by the codes held by different professional groups.

3.1.4 Social work theory

- Research-based concepts and critical explanations from social work theory and other disciplines that contribute to the knowledge base of social work, including their distinctive epistemological status and application to practice.

3.1.5 The nature of social work practice

- The place of theoretical perspectives and evidence from international research in assessment and decision-making processes in social work practice.
- The integration of theoretical perspectives and evidence from international research into the design and implementation of effective social work intervention with a wide range of service users, carers and others.
- The processes of reflection and evaluation, including familiarity with the range of approaches for evaluating welfare outcomes, and their significance for the development of practice and the practitioner.

Introduction

In this chapter we examine the development of youth justice theory, policy and practice. In order to understand the rationales underpinning any area of social work practice, it is always vital to have an insight into the way your area of practice has been shaped by its history. It is arguable that the study of youth justice, more than any other area of social work practice, is a creature of its historical development. Though new perspectives have emerged over the recent history of juvenile justice policy, the whole structure of the youth justice industry has been imbued by dominant philosophies that have seeped into the roots of the foundations of youth justice practice and thus still monopolise and govern contemporary practice. It is necessary, therefore, to review the bedrock of youth justice theory and practice and trace the evolution of our unique youth justice system over the last century. Only when we understand the origins and maturation processes of a system can we understand the logic behind contemporary practice.

In Chapter 1, we referred to the two (arguably polemic) philosophies that appear to have dominated youth justice theory over almost a hundred years, namely the justice and welfare perspectives. We also noted that, as these standpoints seem to be directly oppositional to each other, the historical development of youth justice has been peppered with manifestations of conflicts between these approaches, conflicts that have, perhaps, hindered any cohesive advancement in youth justice practice. I have argued elsewhere that the divergent natures of these two leading philosophies of youth justice render any attempt at fusion at the level of practice futile (Pickford, 2000).

This chapter is split into three parts: in Part 1 we examine the historically dominant approaches of justice and welfare; Part 2 analyses other philosophies that have emerged and arguably superseded the justice and welfare perspectives; and in Part 3 we briefly chronicle the historical development of youth justice legislation.

Part 1: The two historically dominant philosophies – justice and welfare

In this section we examine the two perspectives of youth justice that dominated policy developments over most of the twentieth century, before going on to examine further perspectives (in Part 2) that have developed since the latter part of the last century. In order to understand these approaches, it is useful to analyse how features of each become manifest in practice. As I have posited that they are polemical positions, the features of each in terms of contrasting characteristics are outlined below.

Justice vs welfare

- *Due process vs adaptable procedures.* In the justice approach, adherence to a fixed procedure is paramount in order to ensure that all accused persons are treated in the same manner; whereas using the welfare approach there is no fixed procedure – procedures are adaptable to the case/issues being discussed.
- *Legalistic vs holistic.* The justice perspective emphasises ‘formal justice’ where legal procedures and legal representation by lawyers are used to ensure that all young people who come before the court are treated equally and fairly; whereas using the welfare perspective, lawyers will generally not be required – other professionals may take part in the hearing (e.g. social worker, teacher, youth worker, health worker) in order to discuss possible solutions to the young person’s problematic behaviour.
- *Adversarial vs inquisitorial.* The justice philosophy requires a traditional focus on legal battles between the defence and prosecution lawyers in an effort to find the truth; whereas the welfare philosophy adopts a minimalist approach to fact-finding, avoiding conflictual confrontations.
- *Formalism vs informality.* The justice standpoint requires a sombre procedure in a courtroom, which purportedly reinforces the serious nature of matters being raised – in a Crown Court, lawyers wear gowns, in all courts complex legal language is used; whereas using the welfare standpoint, hearings will take place in an informal atmosphere and there may, for example, be a discussion of the alleged offending event and possible solutions where all parties, including the young person and parent(s) are encouraged to speak.
- *Proportionate vs tailor-made sentence.* To ensure fairness and consistency, using the justice approach the defendant should be sentenced in proportion to the seriousness of the offence; whereas the welfare approach requires that the sentence primarily should fit the needs of the offender rather than reflect the seriousness of the offence – emphasis is placed upon what kind of intervention is needed to help the young person desist from negative behaviour patterns, and disposals should be aimed at the need to reform.
- *Responsibility and blame vs explanation and causation.* Using the justice perspective, any person aged ten or above (in England and Wales) is presumed capable of forming the level of culpability (*mens rea*) required for the crime and so logically should be made to face up to the full consequences of their behaviour; whereas under the welfare

perspective, the reasons behind the offending behaviour are investigated in order to provide suitable interventions and the young person's capacity to form the required level of culpability is considered.

- *Act orientation vs actor orientation.* In the justice paradigm, the emphasis is on the crime – on the action performed rather than on the person who performed it, and appropriate disposals will be decided upon with regard to the act rather than the actor; whereas during welfare-based proceedings, the emphasis is upon the actor rather than the act.

ACTIVITY 2.1

Now that you have some idea of the different dominant approaches of justice and welfare, let's examine a case study where dilemmas might arise due to the divergences of the dominant philosophies:

Darren, aged 12, has been arrested for writing graffiti on the walls of his local police station. This is his first offence but the police believe that, given the extent of the damage and the cost of repair, the matter should be referred to Youth Court. Darren is sentenced to a six-month referral order and you, as a youth offending social worker, have been asked by your manager to write the referral report and arrange a youth Offender Panel. While interviewing Darren he discloses to you that he and his sister, aged nine, have been physically and sexually abused by their father over a number of years and that their father regularly 'beats up' their mother. You believe that this offence was effectively a 'cry for help'. This is the first time this abuse has come to the attention of any authority.

- *What ethical dilemmas are you faced with by this case?*
- *How do the justice and welfare approaches relate to this case?*
- *Is the youth justice system the proper place for such a case?*
- *Should Darren be punished for his criminal act?*
- *What recommendations regarding the content of the referral order would you propose? (see Chapter 4).*

Incompatibility of dominant philosophies?

There have been many attempts by successive governments to fuse the justice and welfare approaches, in the belief that these contrasting philosophies could melt together to form a seamless, merged practice. This has arguably never succeeded. When you examine the history of youth justice legislation (below) you will realise that each government has failed dismally at its attempt, and on every occasion both approaches have been unhappily forced together by the growing weight of ill-conceived legislation, the result being a piecemeal mish-mash of justice and welfare measures lying uneasily together at different points of youth justice practice. Should we be surprised that a happy alliance has never been forged? If we put oil into water or squeeze lemon into milk do they mix? The oil floats on top of the water and the milk curdles. It is impossible to fuse two divergent substances that are composed of completely different elements. Similarly, the enforced union of two oppositional philosophies will not result in a joined practice. The problem

with this attempted merger is that they are opposing approaches. They cancel each other out. Any attempted merger is, therefore, inevitably doomed to failure. (Even the most cursory critical analysis of the history of youth justice policy and legislation exposes this failure – see Part 3 of this chapter.)

Prior to Labour's election success in 1997 the incompatibility of the two paradigms had been recognised. The then Shadow Home Secretary Jack Straw stated that at the root of the problem with the youth justice system was a fundamental confusion over philosophy:

At the heart of the crisis in youth justice is confusion and conflict between welfare and punishment. Too many people involved with the system are unclear whether the purpose is to punish and to signify society's disapproval of offending or whether the welfare of the young offender is paramount. (Home Office, 1997g, p9)

The solution proposed was a reworking of philosophy: 'This confusion cannot continue. A new balance has to be struck between the sometimes conflicting interests of welfare and punishment', which would involve 'resolving some of the confusion between the relationship of welfare and punishment in dealing with young offenders' (Home Office, 1997g, pp9,18).

However, as noted by Fionda (2005) by 1997, in order to justify their proposals to mix justice and welfare initiatives in the Crime and Disorder Act, the Government appeared to have changed their mind and denied any incompatibility between 'protecting the welfare of the young offender and preventing that individual from offending again' (Home Office, 1997d, para 2.2). In Chapter 4 we look at whether this confusion has been resolved by sweeping reforms that have taken place since 1997.

In addition to Labour's recognition of the contradictory nature of justice and welfare approaches, various prominent academics in the area of youth justice have also clearly noted the antagonism between the dominant paradigms.

The history of youth justice is a history of conflict, contradictions, ambiguity and compromise. Conflict is inevitable in a system that has traditionally pursued the twin goals of welfare and justice . . . As a result it continually seeks the compromise between youth as a special deserving case and youth as fully responsible for their own actions. (Muncie and Hughes, 2002, p1)

Muncie and Hughes further argue that the conflict has given rise to an expansion of the remit of the youth justice industry while in pursuit of a compromise. Perhaps as a result of these irresolvable philosophical tensions, theoreticians (but not yet practitioners) seem to have abandoned the justice vs welfare debate, contending that it is 'moribund' and arguing that attempted legislative solutions to this dilemma have resulted in broadening levels of state control of young people, as witnessed in youth justice legislation in the last 25 years (Muncie, 2004). The creation and expansion of civil orders against children and young people in the form of anti-social behaviour contracts, orders and curfew orders are key examples of the widening of social control measures.

Fionda also refers to 'internal conflicts within policy' producing 'ambiguous legislation' that can 'badly misfire' due to 'an inability to choose one approach over the other' (2005, pp40, 43). Rutherford (1992) and Pratt (1989) have also discussed the incompatibility of these two ideologies.

In an attempt to evidence the contradictory nature of justice and welfare approaches, I have noted elsewhere (Pickford, 2000) examples of the various strategies that have been adopted by successive governments in an attempt to fuse justice and welfare approaches. Each has failed and each arguably represents evidential proof of the impossibility of merger at both levels of theory and practice. The failed strategies include:

- *Bifurcation strategy*. Distinguishing between different types of children and young people who come before the justice system. This involves differentiating those who need help from those who deserve punishment; serious offenders from non-serious offenders; persistent offenders from those whose behaviour, it is believed, can be 'nipped in the bud';
- *Sequencing strategy*. Creating different types of procedures/processes that utilise divergent approaches, e.g. a justice approach in relation to trial and conviction – a welfare approach in relation to mitigation and sentencing; pre-trial/court diversionary schemes.
- *Institutional strategy*. Developing practices whereby different institutions/organisations will deal with different types of young offenders, e.g. Youth Offender Panels or courts; social services or the formal youth justice system.
- *Double-edged strategy*. The introduction of measures that have both a welfare and a justice function, e.g. the criminal care order introduced by the Children and Young Persons Act 1969 (now abolished).
- *Career criminal strategy*. A young offender may experience a more welfare-oriented approach at the start of their offending career, e.g. by the use of reprimands and final warnings or other diversionary measures. If they continue to offend, more justice-oriented procedures and sanctions will be implemented.

All the above forms of compromise amount to techniques or splitting strategies which attempt to distribute incompatible elements across the system in different ways (Pickford, 2000, pxxxiv).

When we examine the history of youth justice legislation (in Part 3, below) you should be able not only to assess the legislations in terms of justice and/or welfare measures, but also to identify any of the 'splitting strategies' that might have occurred in order to facilitate implementation.

Given the tendency of academics to deal with these inevitable and unsolvable tensions by moving away from an incessant focus on justice and welfare paradigm (see below) is it not time for the government too to overhaul youth justice theory and provide some consistency?

ACTIVITY 2.2

In groups, discuss whether, in your opinion, justice and welfare approaches can work together and succeed under the same system. Can you think of any strategies/approaches that might assist a seamless merging of these approaches?

Part 2: Other perspectives of youth justice

In addition to the traditional dominating dual perspectives of justice and welfare, academics over recent history have developed/spotted a veritable smorgasbord of approaches to youth justice. Their analyses cover recognition of a number of youth justice styles.

Preventionism

It could be suggested that a further principle of youth justice was born (in embryonic form) at the end of the 1960s: the prevention principle, which has arguably always been a nascent feature of welfarism, emerged in the Children and Young Persons Act 1969 and, in a distinctly overt form, in preventative measures introduced by the Crime and Disorder Act 1998, such as anti-social behaviour, curfew and child safety orders (ASBOs, COs and CSOs). Its rationale is that pre-emptive early intervention should prevent potential future offending behaviour. This approach was given further momentum by the Anti-Social Behaviour Act 2003, which entrenched and expanded police and local authorities' powers to obtain civil orders against young people, whether or not they had committed a criminal offence, and further extended powers relating to parenting orders (POs) introduced by the Crime and Disorder Act 1998. Broader measures, in the form of acceptable behaviour contracts (ABCs) as an interim measure issued prior to a full ASBO, coupled with the introduction of individual support orders (ISOs) targeted at young people subject to ASBOs (from May 2004), are evidence of a government willing to stretch out the tentacles of state control and draw non-offenders into the youth justice net.

We noted in Chapter 1 the legal implications of these measures, and the issues in terms of human rights legislation of civil orders issued by a government which, if breached, result in criminal sanctions. We also referred to some challenges that had been mounted by lawyers, in particular regarding ASBOs and human rights breaches. As social work practitioners, this is an area where you should be constantly vigilant in order to ensure that state bodies do not issue controls on your clients in breach of their human rights. Although purportedly welfare-based, it is arguable that preventionism produces labelling and net-widening effects (see Chapter 3) pulling young people who may not yet have committed any criminal offences into the ambit of the criminal justice system; it is, therefore, essentially a latent form of social control.

Such measures are part of what Ashworth (1994) has called a 'pincer movement' in youth justice, which has been in evidence since the 1970s; this movement gained momentum following the death of toddler James Bulger in 1993 and the ensuing media moral panic that led to what various criminologists have called the 'demonisation' of youth (Jenks, 1996). Hendrick (2002) asserts that this case was transformative in that it led to the abandonment of the 'romantic' model of childhood innocence that had been dominant for many decades and caused a resurgence of the 'evangelical child' model – the notion that children are born evil and that we should be wary of them. Fionda states that current youth justice law 'ensures that more devils are drawn into a wider net with a thinner mesh' from which it is harder to escape (Fionda, 2005, p58).

The growth of the youth justice industry over recent years, produced by a focus on preventionism, has been vast, with prevention teams performing major roles in most Youth Offending Teams across the country. In addition to this, the introduction of preventative orders (noted above) since 1998 and the expansion of the preventionism rationale have led to the setting up of various new organisations, for example:

- Youth Intervention Programmes (YIPs), aimed at 13–16 year olds in a community who are deemed most at risk of offending.
- Youth Intervention and Support Panels (YISPs), consisting of 13 schemes across the country aimed at 8–13 year olds who are deemed most at risk of offending.
- On Track Scheme.
- Sure Start.
- Locally based prevention projects run by local authorities and/or local police authorities, including summer activity schemes.
- Positive Futures Programmes.
- Safer Schools Partnerships.
- Anti-social behaviour action teams attached to local authorities.

Although we have noted some of the dangers of a focus on prevention in terms of expansionism, for potential youth justice practitioners, there has never been a better time for you to enter this growth industry!

Corporatism/managerialism/partnerships/systems management

This approach to youth justice practice has been differently named by various academics, hence the broad heading. However, in essence, following negative feedback from the Audit Commission's report (1996) into the old Youth Justice Teams (Misspent Youth, 1996) in relation to the disparate and often lax management processes, systematic and corporate-style management techniques that had already begun to emerge in some quarters were pushed to the foreground in an effort to improve and standardise the practice of youth justice. This was formalised in the Crime and Disorder Act 1998 by the setting-up of multi-disciplinary Youth Offending Teams across England and Wales from April 2000 and the creation of the Youth Justice Board to standardise best practice and monitor the youth justice profession. Furthermore, local areas were required to establish multi-agency panels of key managers in police, probation, youth justice, education, youth services and social services, in order to address issues of crime and disorder and construct local crime strategies. Local authorities were given a statutory obligation to prevent youth crime. In addition, the fast-tracking of young offenders through the criminal justice system was prioritised as a key aim that contributed to better cost-effectiveness.

Muncie (2004) alleges that by the late 1980s, principles of welfare and/or justice had somewhat dissolved into a 'developing corporatist strategy which removed itself from the wider philosophical arguments of welfare and punishment . . . The aim was not necessarily to deliver "welfare" or "justice" but rather to develop the most cost-effective and efficient

way of *managing* the delinquent problem.’ Causational issues are largely ignored when applying this approach and traditional youth justice was ‘reconceptualised as a delinquency management service’ (Muncie, 2004, p272). This new model fitted well with the bifurcated strategy adopted by the Thatcher government in the 1980s (see Part 3, below), whereby serious and persistent offenders were dealt with harshly (with custody) whereas other offenders were diverted from custody by the development of a range of community sentence packages for use as alternatives to an expensive custodial disposal.

The move towards managerialism and multi-agency strategies in youth justice in the 1990s followed a pattern being adopted generally over the whole of the public sector. This posited the notion that social issues such as health, poverty, crime and delinquency were problems that needed to be properly managed using corporate techniques (Clarke and Newburn, 1997). According to Muncie, this approach negated the possibility that these ‘problems’ needed to be resolved rather than merely managed. Adopting the perspective of managerialism in relation to social problems such as youth crime arguably by implication suggests a pessimistic recognition that such problems simply exist in our society and are probably irresolvable. Therefore learning to manage these problems more effectively is the only way forward. This method appears to mirror developments in theoretical criminology over the latter part of the twentieth century. Following Martinson’s (1974) nihilistic claim that ‘nothing works’, theoretical criminology seemed to reach a crisis in theory development, which arguably led to an era of philosophical stagnation. This resulted in both essentialism – a focus on empiricism (largely funded by the Home Office) – and implosion in the form of the development of postmodern criminologies which either attempted to rework old theories or simply dismantle all that had been achieved so far.

Authoritarianism/correctionalism/popular punitiveness

Linked partially to the justice rationale is a classicist notion (see Chapter 3) that crime is chosen rather than caused, that young people are capable of wickedness and that they deserve to be punished for their sins. The post-Bulger media moral panic, which led to the rise of what has been called ‘popular punitiveness’, reveals that it would be electoral suicide for any political party to appear to be ‘soft’ on serious and persistent young offenders. Hence, despite the reduction in youth crime figures over the last ten years (see the Home Office youth justice annual statistics on the Youth Justice Board website) the figures for receptions into custody in terms of both remanded and sentenced youths has risen. This ‘law and order’ approach that is reflected (created?) in newspapers such as the *Daily Mail* and the *Sun*, has ensured that any proposals that involve a radical element in terms of diversion or de-incarceration, are subject to a popular (and sometimes judicial/magisterial) backlash. The conclusion reached by politicians and policy-makers is that custodial sentencing options must be preserved and used robustly where considered necessary.

The justification for incarcerative disposals is further assisted by the historically developed notion that custodial establishments for young people are educative and reforming in nature. As Muncie and Hughes (2002) note, reformatories were viewed as reformatory in nature, borstals as places that fostered rehabilitation through training, while detention centres are viewed as ‘softer’ than adult custodial organisations, secure training centres (12–14 year olds) as places of education, and the detention and training order introduced

by the Crime and Disorder Act 1998 emphasises training and community support upon release. All these examples have created the impression that depriving a young person of their liberty is not as severe as depriving an adult, as the regime they will face is not as bad as in an adult prison and has their reformation and education as a central focus. This attitude has perhaps helped to justify rises in youth incarceration, despite the harsh reality of the severely detrimental impact of custody upon young people, both in terms of potential reformation and recidivism, clearly documented in research (NACRO, 2003c) in addition to the tragic cases of deaths in youth custody that have happened over the last few years. Given the recent focus on the actuarially based risk management or the 'what works' agenda (see below) it is, perhaps, astounding that clear evidence is repeatedly ignored by policy-makers with regard to custodial effectiveness. Their selectivity in this regard is pure political pragmatism. The transparency of their motives is clear, but their failure to follow evidence-based results in this area reveals an unjustifiable inconsistency of approach that panders to neo-conservative authoritarian rhetoric.

Authoritarianism is further in evidence through other measures introduced by the Crime and Disorder Act and subsequent legislation, such as tagging from the age of ten, the introduction of civil orders such as ASBOs, ABCs, curfew orders and parenting orders and the removal of state benefits for those who fail to comply with community orders.

Responsibilisation

David Garland (1996) developed the notion of the responsibilisation perspective as a description of government policies that seek to tackle the problem of crime by subtly encouraging the transfer of some responsibility for crime control away from formal agencies (e.g. the police, community support officers) to informal controls and mechanisms (e.g. private security, Neighbourhood Watch, local community groups). Under these initiatives, the message to individuals, businesses and communities is clear: the chance of becoming a victim of crime is not something that official agencies can alter, rather it is a matter of personal risk management – each person is responsible for the management of their risks of becoming a victim of crime. All citizens must practise practical avoidance methods in order to reduce the opportunity for crimes to be perpetrated against them, including target-hardening measures (burglar alarms, steering locks) and increased private surveillance (security lighting, CCTV). Muncie and Hughes (2002) describe this as a 'neo-liberal' method of government, which diverts the responsibility for crime away from the state. It is somewhat ironic that, in tandem with the growth of victim rights in this country, we have witnessed the concomitant rise of victim blaming: the latter is a logical result of the upsurge in the responsibilisation strategy.

In the area of youth justice, responsibilisation has further meant a devolution of control of crime to local authorities who have been made responsible for crime control strategies in terms of multi-agency panels of various managers within authorities (police, probation, social services, education) devising local youth justice plans. Consequently, local agencies are accountable for the 'crime problem' in their locality.

Furthermore, as Muncie and Hughes (2002) note, the responsibilisation strategy is arguably also in evidence in two other areas of youth justice reform following the Crime and Disorder Act 1998. It is noticeable first in terms of the growth of focus on restorative

justice, part of the purpose of which is to make the young person face up to the reality of their action and take full responsibility for their law-breaking behaviour. Second, the abolition of the principle of *doli incapax* ('incapable of evil') – whereby it had to be shown that young people aged 10 to 13 possessed the ability to form the required level of culpability necessary for the offence for which they were accused – abandoned a 'buffer zone' of protection for the youngest people who come before our courts. Now these young people are automatically considered able to form the required level of *mens rea* ('guilty mind'). This now forsaken principle of *doli incapax* had been in evidence in our criminal justice system since the Middle Ages (Allen, 1996).

Paternalism

From the advent of the Welfare State after the Second World War onwards, it is arguable that the state has acted as guardian of its citizens. Even prior to this era, Section 44 of the Children and Young Persons Act 1933 enshrined what became known as 'the welfare principle' in relation to young offenders. This provided recognition of the young offender as a vulnerable, developing character and stated that all courts dealing with young people must primarily have regard to their welfare. This ethos of the state as the protective guardian continued to be in evidence in youth justice legislation and practice up to the 1980s, having its heyday in the 1960s and 1970s (see below). When the Thatcher government promoted principles of individualism and autonomy evidenced in Mrs Thatcher's famous statement, 'There is no such thing as society, there are individual men and women and there are families', (published in *Woman's Own* magazine, 31 October 1987) this led to a return to a classicist analysis of crime causation (see Chapter 3) and a belief that crime was simply an activity *chosen* by individuals. Alongside the resurgence in this notion came the belief that individuals were, therefore, responsible for their law-breaking behaviour – they could no longer blame deprivation, poverty or other social causes.

This attitude was part and parcel of the responsabilisation strategy, noted above. However, as Muncie and Hughes (2002) assert, aspects of youth justice legislation have still clung on to the notion of paternalism, despite a general move towards individualism and responsibility. This is witnessed not only by the British government being a signatory of international treaties in relation to the treatment of young suspects (see Chapter 1) but also in measures such as parenting and curfew orders, which are couched in the language of assisting and supplementing parental guidance (though their true purpose might be seen by some as merely an extension of state control into family and private life).

Remoralisation

Muncie and Hughes refer to a further perspective which they label the 'neo-conservative remoralisation approach' (2002, p9). As hinted in the previous section, an alternative analysis of the changes that have taken place in youth justice could argue that rather than the government moving away from being responsible for the crime problem by responsabilising its citizens and stepping back from micro-management of communities, in fact the opposite has happened. The advent of additional civil orders such as ASBOs, parenting orders, curfew orders and individual support orders, is testimony to a desire on

the part of government to supplement and amend child-rearing practices as part of a control via re-education by force strategy. This re-education is, in reality, a form of remoralisation of a targeted community – the ‘underclass’.

The fear of the underclass is the catalyst that has prompted this move towards remoralisation. Ken Auletta, the journalist who coined the phrase ‘underclass’ in 1982, referred to them as representing the ‘peril and shame’ of governments. The reason the remoralisation approach is dubbed ‘neo-conservative’ is that the movement gained academic credence through the theories of underclass, crime and anti-social behaviour developed by right-wing (‘right-realist’) criminologists in both the USA and the UK (Murray, 1984, 1988, 1990; Dennis, 1993). It has a moral agenda, as its proponents allege that a great deal of crime and social disorder is caused by feckless young male members of the underclass and that their behaviour is linked to a decline in moral standards, a rise in single parenthood (the youths have no positive male role models) and teenage pregnancies, a lack of application to education/employment, the use of drugs, etc. (see Chapter 3). Behind this notion of dysfunctional and anti-social families is a moralistic notion of how a ‘proper/normal’ family should behave. However, state control of these populations is ‘clouded in a rhetoric of “child protection” or “family support”’ (Muncie and Hughes, 2002, p9). Thus, the targeting of surveillance and social control strategies not only at the criminal population but at families and communities who are deemed to be disorderly or ‘at risk’ of offending is justified by this approach: ‘By proclaiming that the principle aim of the youth justice system is to prevent offending, action against legal *and* moral/social transgressions is legitimised’ (Muncie and Hughes, 2002, p9).

Restorative justice

In practical terms, principles of restorative justice underpinned the introduction of the referral order by the Youth Justice and Criminal Evidence Act 1999 (the referral order came into effect in England and Wales in April 2002). The rationale behind this order was that the young offender would have the opportunity in a Youth Offending Panel meeting to face up to the full consequences of their actions and that a practical package could be put into place whereby the young person would make amends for the wrong committed. Ideally, it was envisaged that the victim would attend panel meetings and that an individual agreement of restoration could be forged through the young person apologising or making amends in some practical or financial way. Unfortunately, the participation of victims in panel meetings has been low (Earle, 2005). The referral order is examined in more depth in Chapter 4.

Although notions of general redress appear initially to be related to the justice approach, it can be argued that at the heart of the principle of reparation is the belief that, having been forced to confront the full impact of their offending, the young person will experience self-reproach and desist from offending behaviour in the future. In essence, therefore, restorative justice prompts rehabilitation and as a consequence falls within a positivistic criminological analysis, believing in the reformation of the subject. As such its natural home is, perhaps, within a welfare-oriented perspective.

Prior to the introduction of the referral order, other sentences were available (and still are) that fell within the restorative ethos. Reparation is surely three-pronged: it relates to reparation to the victim, to the community, and of the offender. Thus any sentence aimed at restoration in any of these three senses falls within this category. Specifically though, disposals such as fines, reparation orders, community punishment orders and any reparation or community work undertaken as part of a supervision order are directly aimed at making amends. The principles of restoration are arguably linked to civil law ideals about restitution and compensation and as such represent a move away from ideas of punitiveness.

The theoretical grounding and rationale for restorative justice is perhaps most famously attributed to John Braithwaite. Braithwaite (1989) examined the concept of 're-integrative shaming' as an ideal in any justice system. This involved practices such as those used in Japan and New Zealand Maori culture whereby the focus of justice procedures was on the wrongness of the act rather than on the actor, and that once an offender had confessed to the crime, they would be welcomed back into the community after making amends for the wrong. He contrasted these practices with our criminal justice system, arguing that the focus on the offender being bad (rather than the offence) amounted to 'dis-integrative shaming', whereby court procedures led to stigmatisation and the offender being treated as what Becker referred to as 'an outsider' (Becker, 1963). Braithwaite (and other criminologists) examined restorative justice models as they operate in Aboriginal, Native American and Maori cultures – more particularly family group conferencing and other community mediation practices – and concluded that it leads to a more satisfactory form of community-based justice and a sense of justice being done (Braithwaite, 2003).

In this country, the Labour government adopted principles of restorative justice when it stated in its White Paper *No more excuses* (Home Office, 1997d) that the three principles underpinning their reform of the youth justice system were 'restoration', 're-integration' and 'responsibility' (the three Rs). The pursuit of the first and second of these aims can be seen in the introduction of the reparation order and the referral order. It is arguable that the growth of and continuing focus on restorative justice is a concomitant part of the recognition and expansion of victims' rights within our criminal justice system generally over the last 20 years, culminating in the new *Code of Practice for Victims of Crime* (Home Office, 2005a) which came into force in April 2006 (see Chapter 8).

Treatment model

Fionda (2005) refers to the treatment model of youth justice. She states that this model is very similar to the welfare approach; indeed, it developed in tandem with welfarism. The treatment ethos however, is specifically linked to the positivist school of criminology (see Chapter 3) which posited that crime is 'caused' by forces beyond the offender's control (early positivists examined biological/genetic causes, then psychological causes, and finally social and environmental causes of crime and delinquency). However, whatever the causal triggers for crime, under the treatment approach the young person is assumed to be not fully responsible for their actions, but instead is reacting to social, psychological and/or biological prompts.

The treatment approach became weakened in the 1980s with a return to the classicist notion of crime as choice and a focus on individual responsibility. The treatment model had always had more credence when applied to juveniles who have been generally regarded as less responsible for their actions than adults due to developing capacities. However, arguably this approach was largely abandoned post-Bulger – by the mid-1990s.

Developmental model

Though the popular notion in relation to the Thatcher years is that of a tough stance on criminality across the board, in fact the Conservative government of the 1980s adopted a bifurcated strategy towards youth justice: a twin-track method that separated serious and persistent offenders from low-level offenders who were largely diverted away from the full rigours of the criminal justice system. This is evidenced by the sharp rise in the use of cautions and the officially sanctioned practice of multiple cautioning for non-serious offenders (Home Office, 1985). This practice was boosted in many local areas by the existence of diversion panels, run by youth justice teams (see Rutherford, 2002 for further details of this model). Such panels would regularly issue a 'caution plus', the equivalent of the final warning, whereby a young person would receive a caution from the local youth liaison police officer and be required to attend for voluntary support sessions at the youth justice team.

However, at the opposite end of the spectrum, despite the rhetoric, numbers entering custody fell over this period due to the development of robust alternatives to custody by the Government, in the form of restricted criteria for youth custody (Criminal Justice Act 1982) alongside the introduction of funded Intermediate Treatment schemes and the Specified Activities disposal. This reduction in the use of the custodial sanction was further assisted by youth justice team practitioners being largely opposed to custody (some teams even operated 'no custody' policies) and being proactive in devising high-tariff alternatives to custody, regarded as acceptable by some local magistrates. Rutherford argues that additionally some magistrates at that time had become sceptical about the usefulness of custody as reformatories for young offenders.

Fionda argues that the developmental model grew as a result of the above factors and that this model regards the adolescent as a developing subject.

The key feature of this model is that crime is viewed as part of the adolescent or traumatic 'storm and stress' phase in a teenager's life. Therefore most . . . young offenders are likely, . . . to grow out of their offending behaviour . . . The response to youth crime therefore needs to . . . not hinder the child's growth. (Fionda, 2005, p39).

Under this approach, where intervention is necessary it should be kept to a minimum in order to avoid stigmatisation. Furthermore, custody should be reserved for only a few of the most serious offenders.

Communitarianism

It is possible to link communitarianism to the responsabilisation approach as it involves placing the responsibility for and the solution to crime firmly within designated communities or areas. Local crime strategies and local youth justice plans are formed from within

the community for that community (by local multi-agency experts) in order to directly address the particular crime issues or 'hotspots' within that community. According to Hester (2000), the acceptance of the concept of 'community safety' as a key factor of the communitarian approach can lead to tensions, in that on the one hand it implies the ability to reach a consensus within local areas but on the other it seems to have sanctioned the adoption of exclusionary tactics such as those that inevitably stem from, for example, an acceptance of 'zero tolerance' strategies or from the proactive targeting of ASBOs against certain communities/families. In this vein, the communitarianism approach can be viewed as negatively linked to the remoralisation strategy and thus can be regarded as feeding into an agenda that stigmatises and represses certain target (underclass) communities. As Hester states, 'the fact remains that in times and places where there is fractured consensus, attempts to create a spirit of community might involve the exclusion of those unable or unwilling to "belong"' (2000, p162).

Actuarialism/risk management/'what works' approach

The crime risk management model is partly related to the preventionist approach in that its aim is to reduce youth offending within a community. Prior to the Crime and Disorder Act 1998, the Morgan Report on crime prevention (Home Office, 1991) had been influential in stressing the need for a community-based multi-agency approach. Such strategies should be based on effective empirical research that will produce accurate crime-mapping of localities so that problem areas and issues can be specifically targeted. This evidence-based practice is part of the 'what works' agenda, favoured by the Audit Commission's *Misspent youth* report (1996) and reviewed by the Home Office (Goldblatt and Lewis, 1998) which posits that action needs to be targeted as a result of constantly reviewed data about effectiveness and that alternative inefficient approaches should be abandoned.

This ideology follows what has been called 'actuarial justice' principles or the 'new penology' (Feeley and Simon, 1992). It is linked to positivistic techniques of identification and management of individual offenders on the basis of levels of 'dangerousness' – an assessment requirement that has gained statutory force since the Criminal Justice Act 2003 in relation to both adult and young offenders (see Chapter 4). In addition, Youth Offending Teams (YOTs) are required to evaluate the risks to the public in relation to all the young people they deal with by means of the completion of the Asset assessment (see Chapter 6).

Muncie alleges that when compared with the old justice vs welfare approaches, the whole risk management ethos amounts to a 'less philosophically defensible aim of preventing offending by any pragmatic means possible. In place of the pessimistic "nothing works" paradigm evidence-based research and fiscal audit were turned to reveal interventions that might "work" . . . in the search for "value for money" and cost-effective, measurable outputs' (Muncie, 2004, pp271–2).

A meze of theoretical approaches, or a maze?

While Ashworth (2000) has referred to the growth of youth sentencing options as creating a 'cafeteria' style justice (which Fionda describes as 'à la carte' sentencing), it could be argued that in terms of youth justice theory we have a meze of approaches (though for

some students it might appear to be a maze). Indeed, Fionda alleges that 'Contemporary policy attempts to try all approaches at the same time, . . . in the hope that within the melting pot we will discover that "something works"' (2005, p58).

In addition to the list of philosophical approaches listed above, Muncie and Hughes (2002) further discuss 'hybrid agendas', saying that it is difficult to state that one approach is prioritised above another or to assert that while one particular strategy is in the ascendant another is necessarily falling out of favour. Indeed they refer to

a diverse array of strategies that is available to achieve the governance of young people. It is an array that is capable of drawing in the criminal and the non-criminal, the deprived and the depraved, the neglected and the dangerous. This broad ambit is secured because the discourse . . . is sufficiently imprecise to be all-encompassing.
(2002, p13)

ACTIVITY 2.3

Having examined all the models/approaches in relation to youth justice, discuss which one(s) you prefer and why.

Part 3: A brief legislative history

The development of youth justice practice over the last ten years (1997 onwards) is discussed in Chapter 4; this section briefly describes the historical development of youth justice policy prior to 1997. I refer to my previous analysis of this period (Pickford, 2000).

ACTIVITY 2.4

As we trace the legislative history of youth justice (below) see if you can spot which of the theoretical approaches outlined above apply to each legislative enactment. Can you spot any incompatibility of approaches and if so (how) has this tension been resolved?

Prior to 1908 there existed no separate system for dealing with young offenders. The Children Act 1908 created juvenile courts and although these were presided over by the same magistrates who sat in the adult courts their establishment indicated a vague understanding that the reasons why children and young people commit crime, and the needs of children and young people who come before the courts, might be different from those of adults. However, it can be argued that some confusion arose at this inception stage between the quite different approaches required for those children in need of care, and those who had committed criminal offences, as the Act gave the juvenile court jurisdiction over both criminal and care issues. The unfortunate coupling of these dual roles of care and control had the practical effect of the same judicial body being called upon to deal with both the so-called 'depraved' and 'deprived'.

A recognition of the differences between adults and young people in terms of responsibility and blameworthiness, embodied in the 1908 Act by the creation of a distinct system of youth justice, gave birth to a latent and perhaps concomitant acknowledgement of a process of distinguishing between the different types of young people who came before the juvenile justice system – those who deserved punishment and those who needed help to overcome their difficulties. The tacit appreciation of this difference is arguably a tenuous but early manifestation of a bifurcated approach to dealing with different kinds of young people who came before the juvenile courts which was to develop over the course of the twentieth century.

The next significant piece of legislation was the Children and Young Persons Act 1933. The Act was passed as a result of the report of the Moloney Committee (Home Office, 1927) which contained a blend of classicist and positivist explanations of criminality in children and young people (the classicist and positivist approaches are outlined in Chapter 3). The Committee regarded law-breaking as a deliberate act of defiance, which had to be dealt with by formal court procedures and sanctions, while recognising that delinquent behaviour may be caused by psychological or environmental factors that were beyond the young person's control. Morris and Giller (1987) contend that the report thus presented:

dual images of the delinquent [which] were placed not side by side but in sequence. In the first instance . . . the offence was used as a conscious act of wickedness. Once the act was proved or admitted, however, it was viewed as a product of personal or external forces. (1987, p71)

The 1933 Act was instrumental in establishing what became known by professionals as 'the welfare principle', which is still of paramount importance for the court when dealing with young offenders. Under Section 44 of the Act, a court must: 'have regard to the welfare of the child or young person and shall in a proper case take steps for removing him from undesirable surroundings or for securing that proper provision is made for his education or training'.

An early recognition of the inappropriateness of young people in social need being dealt with by the same institutions that dealt with juvenile offenders, can be seen in the report of the Care of Children Committee in 1946, which accepted that it was undesirable for approved schools to provide identical services and regimes for non-offenders and offenders. The report also precipitated the formation of the local government children's authorities, effectively a social service department established by the Children Act 1948, to deal with both deprived children and children subject to criminal court orders.

The Children and Young Persons (Amendment) Act 1952 allowed courts to remand young offenders to local authority accommodation and created an approved school licence release whereby those released from approved schools were to be supervised within the community by local child-care officers. This Act in effect created two provisions whereby the systems of control (the criminal justice system) and of care (the welfare system) became intertwined when dealing with young people made subject to such orders.

In the 1960s, as a result of the Ingleby Report (Home Office, 1960), a more liberal understanding of youth criminality than had been seen previously began to be evident, perhaps reflecting a recognition of the influence of criminological debates of the time which

focused upon social and environmental rather than individualistic causes of crime. There was also an acknowledgement of the labelling perspective that flourished in criminological circles at that time. This promoted recognition of the probable negative results of stigmatising young people and the impact of this stigma on their life chances. The report recommended a reduction in the criminal jurisdiction of the juvenile court via the diversion of non-serious offenders away from the formal criminal justice system and a focus upon welfare provision for those who came before it. This warming towards welfarist models, coupled with professional doubts about the effectiveness of punishment for young offenders amongst social work personnel, continued throughout the 1960s and was reflected in the policy debates concerning youth criminality over that period.

An appreciation of deprivation and social inequality as causal factors in juvenile delinquency, together with a recognition of the stigmatising effects of early criminalisation, was also clearly visible in a radical white paper (Home Office, 1965). It proposed that young offenders should be completely removed from the court system and dealt with exclusively by social service departments. This radicalism of the mid-1960s met with vociferous opposition, mainly from lawyers within the Conservative party, and led to a justice-oriented backlash that resulted in an uneasy compromise in the form of the Children and Young Persons Act 1969 introduced by the then Labour government. Some of the more welfare-oriented provisions of that Act, such as the raising of the age of criminal responsibility to 14 and the proposal to allow local authorities to deal with most juvenile delinquents by means of supervision and care arrangements, never came into force due to the incoming Conservative government's refusal to implement them. However, in the same period in Scotland there was little opposition to a welfare model of youth justice as proposed by the Kilbrandon Report in Scotland (Home Office, 1964). A treatment approach was implemented north of the border at the same time as a justice backlash was occurring in England and Wales (see Pickford, 2000, Chapters 8 and 9).

The Act also granted the criminal court the power to pass a criminal sanction on a young person that in effect amounted to a welfare provision – the criminal care order (abolished in 1989). In that sentence, the 'deprived' and the 'depraved' became as one; the welfare measure became a criminal sanction.

The battlefield of the debates surrounding the passing and implementation of the 1969 Act resulted in a youth justice landscape that produced, in the 1970s 'a widening of the net of control as elements of the new system brought into being by the 1969 Act were absorbed into a larger system which retained its traditional commitment to imprisonment' (McLaughlin and Muncie, 1996, p267).

In effect, the 1969 Act created greater powers of discretion for social workers and did nothing to stem a rising tide of custodial disposals. Social workers were given wider professional discretion, which enabled them to expand their client group – a kind of professional entrepreneurialism – and this resulted in many non-serious delinquents being drawn into the social control net of the youth justice system under the guise of preventionism.

The Conservative victory in the 1979 general election saw the start of the Thatcher era and a move towards individualism and consumerism. The 'rule of law' and 'law and order' rhetoric, which dominated the Conservative's election campaign, began to be made flesh by the introduction of the (soon abandoned) 'short, sharp shock' militaristic custodial sentence.

The Criminal Justice Act 1982 restricted the criteria for custodial disposals and transformed borstals into youth training centres, aimed at giving young offenders an experience more akin to an adult prison. A policy of bifurcation was pursued in the succeeding years of the Conservative government, and arguably continued until the post-Bulger panic in the 1990s. This practice involved 'getting tough' on those deemed serious and persistent young offenders, while endeavouring to divert first-time and non-serious juvenile offenders away from the more stigmatising effects of the criminal justice system. Indeed, a general trend away from incarceration can be seen as early as the 1982 Act, which created the specified activities order as a high-tariff community disposal that was later to become a direct alternative to custody under the Criminal Justice Act 1988.

The Home Office circulars during the 1980s officially encouraged the use of cautions for young offenders (Home Office, 1985) and in many areas this resulted in the practice of multiple cautioning of some young people. This arguably allowed flexibility for professionals in dealing with young offenders whom they regarded as non-serious and who were likely to 'grow out' of their delinquency. This discretion has largely been lost by the creation of the more rigid final warning system in the Crime and Disorder Act 1998. Additionally, the Conservative government of the 1980s provided local authorities with funds to set up intermediate treatment centres and programmes for young offenders as custodial alternatives (unfortunately, funding for these was reduced by the end of that decade). Similarly, the Children Act 1989 placed a duty upon local authorities to establish diversionary schemes; attendance at these schemes could be ordered as part of a court sentence. The Act also required social service departments to provide alternatives to secure accommodation remands for young people awaiting trial.

The Criminal Justice Act 1991 represented an unusual fusing of various approaches. In terms of sentencing policy generally (adults and juveniles) the Act can be regarded as a move towards justice ideas of proportionality in sentencing (including fines). However, welfare-oriented provisions for young offenders are in evidence by a number of measures introduced by that Act (Gibson, 1994). These include an expansion of the upper age limit in the youth court to include 17 year olds; a reduction of the maximum custodial sentence in a young offender institution to 12 months (excluding 'grave' offences – see Chapter 4); a raising of the minimum age that a young person can be sentenced to a custodial punishment to 15; the expansion of community sentences for 16 and 17 year olds; and the creation of new remand arrangements (including remand fostering) for 15 and 16 year olds.

Ironically, perhaps, certain more general provisions of the Criminal Justice Act 1991 regarding proportionality of sentencing were not received well by the more conservative magistrates who seemed to believe in a type of 'welfarism' that was expressed in individualised disposals and who felt that their discretionary powers to sentence the offender (rather than the offence) had been severely curtailed. As a result of these criticisms, the Criminal Justice Act 1993 removed the classicist tariff-based restrictions placed by the 1991 Act on those sentencing, in both adult and youth courts, and allowed the full offending history of the defendant to be taken into account when deciding an appropriate disposal. Also, offences committed on bail were to be regarded as an aggravating factor, and the unit fine system was abolished.

The 1993 Act can be viewed as the beginning of a march towards more justice-oriented policies within the criminal justice system generally. However, this march was to become a sprint after the killing of James Bulger by two 10 year old boys in 1993 and the populist crisis in morality debate that ensued. This was largely fuelled by the media highlighting cases of persistent young offenders who, it was argued, were simply 'getting away with it' due to the youth justice system's inability to deal with them adequately. The Bulger case eventually led to the abolition of the presumption of innocence for 10–13 year olds in the Crime and Disorder Act 1998. Children were no longer to be regarded as innocent; they were potentially capable of evil deeds. Notions of childhood innocence were replaced by demonising images of young people. As a result, the Criminal Justice and Public Order Act 1994 arguably represented a politically motivated lurch towards a more punitive response in relation to children and young offenders. The use of police detention and secure remand was introduced for those as young as 12 years old; secure training centres were to be established as a custodial sentence for persistent offenders aged 12 and over; the maximum young offender institution sentence was increased to two years; and the 'grave crimes' procedure became operational from the age of 10. This statute was followed up by a Home Office circular (Home Office, 1994), which officially restricted the use of more than one caution for young offenders.

This was the last major piece of youth justice law-making under the then Conservative Government. We will examine the policy debates of the mid-1990s and the 'New Labour' transformation of youth justice practice in Chapter 4.

C H A P T E R S U M M A R Y

In this chapter we have examined the various theoretical perspectives of youth justice that have developed over the last one hundred years. We analysed, first, the traditional philosophies of justice and welfare and noted both the contrasting nature of these approaches and their historical dominance of youth justice theory. We then went on to trace the emergence of other philosophies that have been developed (or recognised) by various academics over the more recent history of youth justice policy. There now seems to be a myriad of approaches and analyses of the juvenile justice system, each one backed by evidence from examination of policy by various academics. Though this may appear to be a theoretical maze through which students and practitioners of youth justice are left to wander, the variety of approaches has certainly enriched contemporary debates about ways of addressing youth criminality. Last, we took a short historical tour through the development of youth justice legislation. There we saw no evidence of a consistent approach to tackling juvenile criminality being adopted by successive governments. However, friction between the dominant philosophies of justice and welfare was notable in policy debates and legislative content over the course of the last century.

FURTHER READING



Muncie, J (2004) *Youth and crime*, 2nd edn. London: Sage.

This text provides a critical analysis of a wide range of issues surrounding young people, disorder and crime.

Muncie, J, Hughes, G and McLaughlin, E (2002) *Youth justice: Critical readings*. London: Sage.

This collection provides a critical introduction to the intellectual reframing of the history, theory, policy and practice of youth justice.

Smith, R (2003) *Youth Justice: Ideas, policy, practice*. Cullompton: Willan.

This book analyses changes in youth justice theory and policy, as well as examining various government initiatives relating to youth criminality.

Chapter 3

Criminological theories in relation to young people who offend

Jane Pickford

A C H I E V I N G A S O C I A L W O R K D E G R E E

This chapter will help you begin to meet the following National Occupational Standards.

Key Role 1: Prepare for and work with individuals, families, carers, groups and communities to assess their needs and circumstances

- Review case notes and other relevant literature.
- Evaluate all information to identify the best form of initial involvement.

It will also introduce you to the following academic standards as set out in the social work subject benchmark statement:

3.1.1 Social work services and service users

- The social processes (associated with, for example, poverty, unemployment, poor health, disablement, lack of education and other sources of disadvantage) that lead to marginalisation, isolation and exclusion and their impact on the demand for social work services.
- Explanations of the links between definitional processes contributing to social differences (for example, social class, gender and ethnic differences) to the problems of inequality and differential need faced by service users.
- The nature of social work services in a diverse society (with particular reference to concepts such as prejudice, interpersonal, institutional and structural discrimination, empowerment and anti-discriminatory practices).
- The nature and validity of different definitions of, and explanations for, the characteristics and circumstances of service users and the services required by them.

3.1.4 Social work theory

- Research-based concepts and critical explanations from social work theory and other disciplines that contribute to the knowledge base of social work, including their distinctive epistemological status and application to practice.
- The relevance of sociological perspectives to understanding societal and structural influences on human behaviour at individual, group and community levels.
- The relevance of psychological and physiological perspectives to understanding individual and social development and functioning.
- Social science theories explaining group and organisational behaviour, adaptation and change.
- Knowledge and critical appraisal of relevant social research and evaluation methodologies.

3.2.2.3 Analysis and synthesis

- Assess human situations, taking into account a variety of factors (including the views of participants, theoretical concepts, research evidence, legislation and organisational policies and procedures).
- Analyse information gathered, weighing competing evidence and modifying their viewpoint in light of new information, then relate this information to a particular task, situation or problem.

- Consider specific factors relevant to social work practice (such as risk, rights, cultural differences and linguistic sensitivities, responsibilities to protect vulnerable individuals and legal obligations).
- Assess the merits of contrasting theories, explanations, research, policies and procedures.
- Synthesise information and lines of reasoning and sustain detailed argument at length and over time.
- Employ understanding of human agency at the macro (societal), mezzo (organisational and community) and micro (inter- and intra-personal) levels.
- Analyse and take account of the impact of inequality and discrimination in work with people in particular contexts and problem situations.

Introduction

Having examined theories in relation to perspectives of youth justice in the previous chapter, here other theories that are useful in youth justice practice are analysed. These theories relate to understanding why young people commit crimes and take part in anti-social or delinquent behaviour. The theories have been developed by criminologists and study of them requires us to undertake a basic theoretical tour of some of the mainstream criminological theories. Due to constraints of space and considering that you are being trained to be reflective in your studies, the mainstream theories are outlined in their basic form without critiques. You can assess their usefulness yourself in terms of how they might assist your future practice as you go through them.

A note on two significant features of recorded crime

Before we examine causal explanations, it should be noted that two major criminological issues/themes regarding gender and race permeate through youth justice practice and relate to other areas of social work studies regarding anti-discriminatory practice (see Chapter 1). It is well documented and evident to all youth justice practitioners that there is an over-representation of (a) male and (b) minority ethnic young people coming before our penal system (visit www.homeoffice.gov.uk/rds/section951.html for the most recent Home Office statistics relating to women and crime and race and crime). If you take a cursory glance at the criminal statistics, the most obvious peculiarity is the shortage of women and girls: they are conspicuous by their absence. Various explanations have been given by criminologists for female under-representation (see Heidensohn, 1996; Walklate, 2004) and for male over-representation (see theories of masculinity and crime such as, especially, Campbell 1993; Jefferson, 1997; Messerschmidt, 1993) within the criminal justice system. According to official statistics, females contribute to only a modest part of the overall crime problem and when they come before the penal system, they are often treated differently from males who have committed similar offences (see references listed, above). As a practitioner, you must be aware of this differential treatment and of some explanations for it.

The reasons for the over-representation of young black males within our criminal justice system has been well documented by the Home Office and criminologists (see especially Bowling and Phillips, 2002) but little effective work seems to have been done to address this issue. The latest Section 95 Statement on Race and Crime was published in 2004 (see

website reference above) and notes several areas of concern relating to the criminalisation of young black people:

- Blacks are 6.4 times more likely to be stopped and searched than whites.
- Black youths are more likely than white youths to be sentenced to a detention and training order.
- Black defendants are more likely to be remanded in custody (than white or Asian defendants).
- If given bail, blacks are more likely to get conditional bail (than white or Asian defendants).
- Black defendants are less likely to receive fines or discharges than whites.

Solomos (1993) has argued that the criminal justice system has become 'racialised' and that black defendants cannot expect to be treated fairly by agents and agencies of the justice system. The inquiries into the death of Stephen Lawrence by a racist gang in 1993 and that of Zahid Mubarek by a known racist in Feltham Young Offenders Institution in 2000 have fuelled public concern about the treatment black people receive while in contact with police and penal establishments. Questions as to why Lawrence's killers were never prosecuted and why Mubarek was sharing a cell with a violent racist psychopath on the day he was due to be released have never been satisfactorily answered.

Major theories of criminology

Let's now examine some of the main perspectives of criminality, while being aware of the concerns relating to possible anti-discriminatory practice issues, regarding the gender and race factors noted above.

Classicism

In tracing the genealogy of criminology, it is generally accepted that modern criminological thoughts can be tracked to writings of the eighteenth century. Mannheim (1960) cites Cesare Beccaria and his classical school of criminology (as outlined in *On Crimes and Punishments*, first published in 1764), as the pioneer of criminological thought. However, it could be said to be misleading to describe classical and neo-classical schools of thought as criminology, as classicism does not concern itself with aetiological (causational) questions in an empirical way (Garland, 2002). The classicist theories can be described as 'pre-criminology', in that they were concerned with philosophical questions about the nature of society and the nature of human behaviour, and were based on speculation as to both.

Relating the justice and welfare perspectives examined in Chapter 2 to theoretical criminology, it can be argued that the philosophy of the classical school of thought supports the justice approach to youth justice, as it views offending behaviour as basically a matter of choice. Splitting the classical approach into principles, Beccaria asserted that:

- All people are free but are by nature self-seeking – they will seek out pleasure and try to avoid pain – and so all people are capable of committing a crime if they think that crime would benefit them and that the benefits would outweigh the costs.
- However, there exists a consensus in society regarding the need to protect personal welfare and property.
- To prevent anti-social behaviour, all people freely enter into the 'social contract' whereby they abandon some of their freedoms in return for protection from the state.
- Education (via the Enlightenment) helps to prevent crime. Crime is essentially irrational behaviour. Beccaria advocated that laws should be made more understandable. He thought that education of young minds would be more effective in decreasing crime rather than mere coercion: 'leading them towards virtue . . . and directing them away from evil' (1963, p62).
- Punishment must be used in order to deter people from violating the rights of others and to demonstrate the irrationality of law-breaking behaviour. The state has been given the right to punish via the 'social contract' and punishment must be prompt, certain and public in order to act as a deterrent.
- Punishment must be proportionate to the interests violated (i.e. the harm done) not for reformation or retribution.
- Laws and legal procedures should be few and simple and legal procedures should adhere to a strict process so that everyone is treated equally. Discretion in sentencing should be avoided.
- All people are responsible for their actions; people are rational actors, choice-makers. There should, therefore, be no excuses or mitigations for criminal behaviour. (However, under neo-classicist revisionism lack of criminal capacity of young children was acknowledged and mitigation was allowed, but only as explanation, not as an excuse for criminal behaviour).

The positivist approach

The positivist school of thought, in contrast to the classicist paradigm, can be regarded as a critique of the legal system, viewing it as an inept means of dealing with crime as a social problem because of its focus on the morality of acts rather than the dangerousness or reformability of the offender. The focus for positivism is upon the person of the criminal. The studies undertaken by positivist researchers have represented an attempt to present empirical facts in order to confirm their ideas that crime was determined, rather than an act of individual choice that was the exercise of free will. The early positivists believed that they could scientifically prove that certain identifiable features within an individual caused a person's criminality. Using this approach, the offender is destined to become a criminal due to:

- Biological or genetic factors (biological positivism).
- Psychological factors (psychological positivism).
- Social or environmental factors (sociological positivism).

A positivist believes that crime is not chosen but caused largely by factors beyond the offender's control. In essence, the belief is that offenders simply can't help themselves. Certain genetic, psychological or environmental factors have influenced their behaviour and the existence of these factors means that offenders are almost pre-programmed to become criminals. With this in mind, one of the great contradictions of the positivist approach to crime is its focus on reformation and rehabilitation. Taylor et al. (1973) refer to this as the 'therapeutic paradox': if the criminal is totally determined, how is reform possible? While this has sometimes been seen as a confusion, the argument has been advanced that what is necessary is an alteration of the determining factors.

It could be argued that the classical and the positivist approach are oppositional. Further, the classicist theory seems to support the justice approach to youth offending (crime is chosen, the offender should take full responsibility for his or her actions and punishments should be proportionate) while the positivist paradigm seems to support the welfare approach (crime is caused by a variety of possible factors, these factors should be taken into account regarding culpability and individualised treatment packages are required to address these causal factors).

A positivistic system of justice requires a broad range of possible sentences/treatments so that professional discretion can be used to choose the disposal most likely to produce reformation. It is arguable that the Crime and Disorder Act 1998 and the Youth Justice and Criminal Evidence Act 1999 have created a vast range of possible disposals for young people who come before the penal system (see Chapter 4). This, coupled with a focus on preventionism, indicates a possible move towards a positivist approach within the youth justice system.

Matza (1964) has argued that there are three identifiable major assumptions within the positivistic framework. These are:

- *Determinism*. This is the idea that criminal behaviour is caused by factors outside the individual's control. These could be biological, psychological, or, as later positivists acknowledge, sociological causes of behaviour.
- *Differentiation*. Criminals are viewed as different from non-criminals due to their biological constitution, psychological traits or socialisation process.
- *Pathology*. Criminals are viewed as different from non-criminals because something has gone 'wrong' biologically, psychologically or sociologically.

In summary, therefore, the positivist school promised to utilise science in order to objectively discover the causes of criminality and provide a cure. While a thorough examination of biological and psychological positivism would be very interesting, it is beyond the scope of this book. Some of the other theories of criminology below (ecology, anomie and sub-cultures) fall within the third category of sociological positivism.

ACTIVITY 3.1

Discuss the crime control measures that might be used in a youth justice system based purely on (a) classicist principles, and (b) positivist principles.

Ecology or crime and the environment

Ecological theory is basically concerned with the geography of criminality. The original theory has been developed extensively by various criminologists and is utilised practically within the youth justice industry in terms of crime mapping, local crime plans and identification of crime ‘hotspots’. The theory tries to explain why crime and disorder often seem to be concentrated in particular locations – often inner-city areas. It examines what it might be about the nature and characteristics of that area (and the people who inhabit it) that appears to precipitate criminal and anti-social behaviour.

The zonal hypothesis

Park (1936, Park and Burgess, 1925) Thrasher (1927), Wirth (1928) and Shaw (1931, Shaw and McKay, 1942) developed a theory about the ecology of crime. They studied the geographical development of different groups in relation to their evolution in the context of the city of Chicago. They used the metaphor of the city as a living organism and examined ecology from the biological perspective of habitat. They asserted that people displayed the aggregation characteristics of animals in their habitat. The theory of ecology was a segmental view of the problem of crime and incivilities in the context of the city. Park contended that the growth of a city is natural rather than planned and that its differential development merely reflects the different tasks each area is called upon to perform. Using the metaphor of plant ecology, he contended that areas of the city experience changes much like a process of balancing in nature, where a new species may move into an area and then come to characterise that area in a process of invasion, domination and succession.

In devising the ‘zonal hypothesis’ the Chicago sociologists were responding to their interest in how cities tended to become ‘internally differentiated’. They claimed that cities tend to evolve in a series of concentric zones of activity and life (see Figure 3.1).

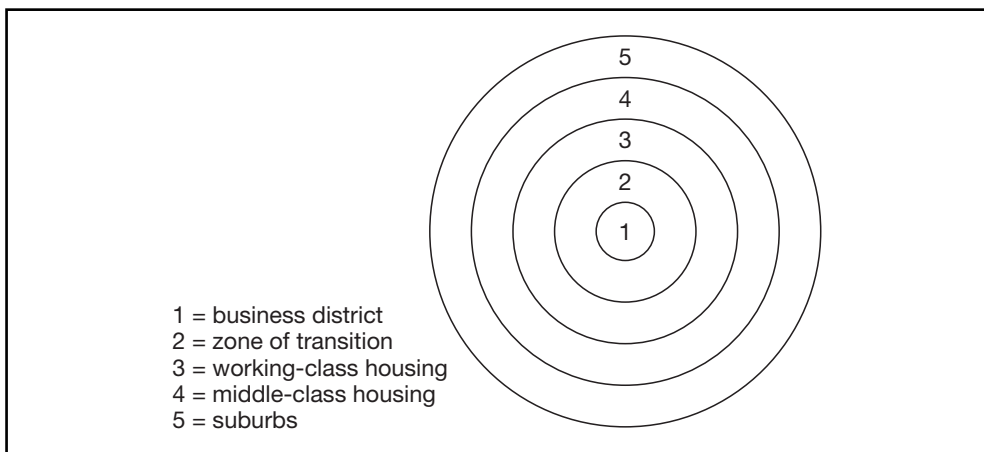


Figure 3.1 Burgess’s ‘zonal hypothesis’

The sociologists asserted that each of the areas had distinctive characteristics that differentiated them one from another. The areas represented unplanned groupings of similar people, and as such mirror the natural world, where there is a division of species in terms of habitat. The effect of this is to transform a geographical area into a 'neighbourhood', which Park described as a 'locality with sentiments, traditions and a history of its own' (1925, p6).

The Chicago sociologists began to fix their attention on the zone in transition. In this area the population was fluid; people would move out as soon as they bettered themselves. Further, the area seemed to have a concentration of what was called 'pathological behaviour', including mental disorder, prostitution, suicide, alcoholism, juvenile mortality, disease, poverty, juvenile delinquency and crime. In examining the characteristics of the zone in transition they discovered that it tended to be an area of cheap rents and poor housing and was home to the most recent groups of immigrants; a succession of ethnic groups tended to live there, and each of these groups seemed in turn to produce similar patterns of behaviour. The area was also characterised by its lack of settled institutions and poor provision of local resources and facilities. The zone was distinguished by what was described as its 'unruly' nature and it tended to house people who were unaccustomed to city life, to America and to one another.

Park found that many of the inhabitants of this area had left very different cultures in order to establish a new lifestyle in a strange and unfamiliar environment. This lack of cohesion was described as 'disorganisation' and 'moral dissensus'. The latter term was later described by Wirth as 'the degree to which the members of a society lose their common understanding', and argued that 'the degree to which consensus is undermined, is the measure of a society's state of disorganisation' (1964, p46). This disorganisation was characterised by the fragmented, fluid and anonymous features of urban life.

In examining the internal relationships within the zone in transition it was noted that poor social and economic conditions had led to mistrust and heterogeneity. As populations moved in and out of the area, change became normal: life became unpredictable leading to instability in terms of social cohesion. A focus of the external relationship of the zone in transition with the rest of the city and the wider American society revealed that in periods of change the instability of the zone was exaggerated, which in turn may precipitate a breakdown in social order. This may further lead to the zone in transition becoming dislocated from the larger society and taking on a characteristic of its own (e.g. the Italian community in Chicago in the 1930s). If this occurs, the community becomes isolated and independent and the master institutions of social control (such as law, the church, the courts, the police), become unable to control the area.

Park asserted that in such a community moral habits could not be effectively implanted. People formed few commitments outside of their immediate family or community and thus ideas of any neighbourhood initiative of crime control was doomed to failure. Wirth argued that the proliferation of different ethnic communities in the zone in transition led to 'amoral familiarism', which eventually could transform the zone in transition into an unsettled and unsafe region. Gangs may spring up to protect their own community and territory and impose their own brand of security. However, the 'protection' provided by the gangs only resulted in exacerbating the insecurity of the region.

People who moved to the USA were faced with the problems of both cultural discontinuities and coping with instability in the area in which they lived. Park argued that this was a particular problem for second-generation immigrants; language, custom and tradition could fall into disuse or change its significance or importance. Young second-generation males in particular, he argued, often saw themselves as marginalised from the culture they had left behind, from their family and from America. These boys often created their own social order that would correspond neither to the culture of their parents nor to the wider culture of the USA, but amounted to an order that moved unstably between both. A resort to crime by these young men was seen as a solution to the problems of their exclusion from wider society due to prejudice, lack of opportunity and economic and political impotence. In effect, rebellion was a structural response to deprivation, to growing up in an insecure city environment, deprived of economic control and resources.

ACTIVITY 3.2

Apply the 'zonal hypothesis' to a city you are familiar with. Does the 'zone in transition' correspond with known crime hotspots? Are local crime and disorder control mechanisms targeted at that area?

Anomie

In order to examine the question of what factors cause some people to become conformist and others to be non-conformist, Merton utilised Durkheim's (1893, 1897) conception of anomie as a state of normlessness and used it as a springboard for developing a general theory of crime. He borrowed Durkheim's notion of infinite aspiration and linked this to dissymmetry between social culture in the USA and social structure in developing his theory of anomie. The basis of his work can be seen in his 1938 article, 'Social structure and anomie'. However, one crucial difference between the ideas of Durkheim and Merton is that Durkheim asserted that human aspirations are not socially learned, as Merton contended, but are innate and natural. Merton was concerned with 'how some social structures exert a definite pressure upon certain persons in the society to engage in non-conformist rather than conformist conduct' (1938, p672).

Goals and means

In examining American society, Merton noticed the social pressure (which he called 'strain') people experienced in terms of their desire to achieve financial success and status. He asserted that the capitalist nature of the USA, coupled with the all-pervading notion of meritocracy, produced an image of America as the land of opportunities where anyone, no matter how lowly their background, could achieve success with hard work and enterprise. He called this the 'American Dream'. Merton used two concepts as the basis of his theorising:

- 'Cultural goals' he described as people's aspirations and desire to succeed. He asserted that such goals are socially learned.
- 'Institutional means' he defined as the availability and distribution of legitimate structural opportunities to achieve the cultural goals.

In a society where there is an emphasis on goals without sufficient provision of equal opportunities to the means of achieving those goals, people may develop a willingness to use any means to achieve the goals. Merton said that the 'most feasible procedure, whether legitimate or not, is preferred to the institutionally prescribed conduct. As this process continues, the integration of society becomes tenuous and anomie ensues' (1938, p674).

It is possible for societies to overemphasise either the cultural goals or the institutional means. Merton alleged that in the USA there is an over-emphasis on achieving the cultural goals, without sufficient attention to the institutional means. He asserted that there is an overwhelming desire for monetary success and material gain but that the institutional means of fulfilling those goals are not available or are denied to a substantial proportion of the population. Merton's so-called ideal situation, where there is an equilibrium within society between the goals and the means, implies that either an equality of opportunity is provided by the government in order to enable people to achieve their desires, or that the learned cultural goals are constricted, so that people's aspirations do not fix upon the unobtainable. The problem with the first position is that as in a capitalist society greed is endemic and addictive, there will always be winners and losers (we can't all be multi-millionaires). In relation to the second proposition, that people would have to be socialised to fix their cultural goals or aspirations upon the achievable, implies notions of Victorian principles of everyone knowing their proper place and of a structured hierarchical society.

Reaction types

According to Merton, deviant behaviour results when cultural goals are accepted (people would like to be financially successful and to have status), but access to these goals is structurally limited (e.g. a well-paid job and career structure is unavailable). It is this 'strain' that Merton described as a state of anomie. He went on to outline possible reactions or adaptations or types of people who may be socially produced due to this strain, which may occur when the goals that have been internalised cannot be legitimately attained. These possible adaptations will occur when the means of a society are not distributed fairly due to the political structure of a society.

- *The conformist* – someone who has accepted the goals of society and is able to achieve them by legitimate means.
- *The innovator* – a person who has accepted the goals but is unable to achieve them by legitimate means and so resorts to illegitimate means in order to achieve them (i.e. the criminal).
- *The ritualist* – an individual who has not accepted societal goals but adopts only legitimate ways of behaviour.
- *The retreatist* – This is the person who neither accepts the cultural goals of society nor has the means of achieving them. Using the language of his day, Merton described these people as 'drop-outs' or 'tramps' and also included within this category alcoholics and addicts.
- *The rebel* – an individual who has rejected the goals and the legitimate means of achieving these goals and seeks to replace them by a different system (the political activist).

Merton's prime concern was with the innovator, the person who uses illegitimate means to achieve their goals: (e.g. a person who, for instance, achieves financial success by theft and robbery rather than obtaining a well-paid job, investing in a savings account, etc). He asserted that inequalities in the social structure encourage criminality as people are indoctrinated to strive for financial and material success but are denied the means of achieving it. It is the lack of co-ordination of the goals and means that in Merton's view leads to a state of anomie. Merton stated that the dream of financial success encourages everyone to have 'exaggerated anxieties, hostilities, neurosis and anti-social behaviour' (1938, p680).

ACTIVITY 3.3

Discuss whether there is a 'British Dream'. If so, is it the same as the 'American Dream'? Can strain theory/anomie explain criminality among young people in Britain?

Subcultural theory

The research of the subcultural theorists essentially amounted to extensions of Merton's approach to explaining deviance – an extension that involved the investigation of youth gangs in urban areas. In order to attempt to make sense of even the most hedonistic non-utilitarian youth delinquency, sociologists began to develop the notion that far from these actions being disorganised and senseless, they did indeed make sense in that the behaviour was a result of some sort of adherence to an alternative cultural pattern.

I will briefly examine a few of the ideas of the 'founding fathers' of the subcultural explanation of delinquency.

Albert Cohen

In accepting the basic tenets of Merton's strain theory as a basis of his theorising about the development of gangs, Albert Cohen in *Delinquent Boys* (1955) attempted to examine the features of the dominant mainstream culture that may lead young men into committing delinquent acts. Cohen also accepted Merton's basic notion that delinquency may be related to impediments to success in conventional terms, which lower-class males in particular may experience.

Cohen examined delinquent subcultures in lower-class life and concluded that the patterns of behaviour he observed within these groups were very different from the larger dominant culture. He proposed that gang delinquency was a group solution to status frustrations that may be experienced by lower-class males. These boys, who were denied status in middle-class terms, would be led to seek status through alternative means, in this case via the gang. Essentially, Cohen proposed that boys who experience similar problems in relation to their lack of success in conventional terms would group together in order to resolve their somewhat masculine problems of failing to achieve status in normatively accepted ways. They would develop a subculture in which they could achieve status by creating their own alternative social order. He argued that criminal behaviour, like any other behaviour, is learned behaviour transmitted by interaction and communication with others largely within interpersonal groups.

In relation to those juveniles belonging to subcultural groups, Cohen asserted that they displayed six prevalent features. They were

- *Non-utilitarian*. The boys may undertake activities that seem nonsensical as they would lead to no particular gains, e.g. breaking a window, or stealing goods and disposing of the items.
- *Malicious*. The boys felt excitement in observing rules being broken, taboos being challenged and viewing other people being disconcerted by their activities and destructiveness.
- *Negativistic*. This was a general trend to invert the values of the wider culture, e.g. whereas studying and doing well at school would be viewed as 'good' by mainstream society, this may be viewed as 'bad' by the boys in the gang.
- *Versatile*. The boys showed an ability to become involved in a variety of delinquent activities and anti-social behaviour, including committing criminal offences.
- *Short-run hedonism*. This included the need for instant gratification without any assessment of the long-term effects of their activities.
- *Group autonomy*. The group viewed itself as being separate from the wider society and there was an acknowledgement among the boys that the gang was to be their first priority.

Cohen asserted that the gang was made up of like individuals 'with similar problems of adjustment' to society (1955, p59). Working-class boys become dependent upon their peer groups when they encounter status problems through not being able to adhere to predominant middle-class norms or values. They turn to the gang for status when they encounter middle-class values that would classify them as failures. In effect, Cohen alleged that boys who form into subcultures do so as a means of hitting back at a society that has branded them as worthless; this is what Downes and Rock call 'the D Streams Revenge' (2003, p146). According to Cohen, 'the hallmark of the delinquent subculture is the explicit and wholesale repudiation of middle class standards and the adoptions of their very antithesis' (1955, p129).

The gang is created due to 'reaction formation' against middle-class values: the gang not only violates middle-class norms, it 'expresses contempt for a way of life by making its opposite a criterion of status' (1955, p134).

Cloward and Ohlin

In *Delinquency and Opportunity* (1960) Cloward and Ohlin suggested that class was a primary element in the formation of delinquent gangs, while criticising Cohen's emphasis on the negativistic nature of delinquent gang activity. They examined subcultural formation and subcultural group types and argued that the type of gang that will develop in a particular area will be dictated by the opportunities available, the pressures suffered and the situation in which the young men find themselves. They asserted that all subcultures are not alike and that there will be different forms of adaptation to strain, which will result in different outcomes.

They focused specifically on urban gangs asserting that the particular strains caused by urbanity lead to a greater prevalence of gangs in city areas. They contended that there were three types of delinquent subcultures:

- *Criminal*. This type of gang may take part in property-related offences as a means of gaining success and prestige. They tend to form where delinquents and criminal adults are closely connected. The adult criminal will provide a role model for the juvenile and help develop their criminal skills. Stable patterns of relationship are present and often networks may develop to facilitate law-breaking behaviour. In such a gang, there appears to be an acceptance of a level of criminal behaviour, which usually focuses upon theft and other property offences.
- *Conflict*. This type of subculture displays violent behaviour as an expression of frustration due to the absence of conventional opportunities and stable relationships, either criminal or non-criminal. Violence is a symbol of discontent, which is used to gain status and to exhibit courage. The rampant frustration leads to chaotic displays of intermittent violence.
- *Retreatist*. This grouping is made up of young people who are unable to achieve success in either legitimate or illegitimate ways and who resort to alcohol or drugs instead of violence as a way of 'leaving' mainstream society in which they have not had much success. This group is reminiscent of Merton's category of the retreatist; of the 'double failure' who rejects both the goals and means of society.

Cloward and Ohlin asserted that the lower-class gang is formed as a response to the problems faced by lower-class males due to the acceptance of culturally induced goals and access to limited means in order to achieving those goals. Moreover, lower-class males do not, they alleged, accept middle-class values (as Cohen asserted); instead, they refuse to accept the legitimacy of middle-class norms. The gang is essentially a 'collective adaptation' to strain and is formed due to 'solidarity' of situation among lower-class males.

Walter Miller

In his 1958 article 'Lower class culture as a generating milieu of gang delinquency', Miller presented a different picture of subcultural formation. He challenged Cohen's assumptions that boys from the lower classes form gangs due to frustrations they feel about not being able to achieve success in middle-class terms. On the contrary, Miller alleged that these subcultures form as an attempt to conform to lower-class traditions, not as a reaction to middle-class traditions. The subculture does not amount to a response to middle-class norms, but in fact is a positive attempt to achieve status in lower-class terms. Thus the gang is normal, not oppositional: Miller argued that life among the lower-classes displayed certain key features or 'focal concerns' – issues that receive a high level of commitment among the lower-class communities. He contended that these 'focal concerns' can be used to characterise lower-class life, but that they are particularly noticeable among lower-class delinquent gangs. These can be outlined as follows:

- *Trouble*. The tendency to conflict with institutions of authority as a way of generating status also involves the use of physical confrontation, sexual activity and the use of drugs.
- *Toughness*. The display of manliness, prowess, physical ability and courage is used when young men feel the necessity to assert their masculinity.

- *Smartness*. The ability to outwit others without being tricked oneself is a skill that can lead to more status than displays of toughness.
- *Excitement*. This is a concern with generating excitement by drinking, drug-taking, gambling, sex, etc., and is used as a means of escape from the boredom that may otherwise dominate their lives.
- *Fate, fortune and luck*. This relates to feelings that they are not able to change their lifestyle and that their lives are often subject to forces beyond their control.
- *Autonomy*. There is a resentment of the restrictions that may be put on their behaviour by institutions of authority and a desire to be liberated from any external controls.

Miller argued that, by adhering to these lower-class focal concerns and cultural patterns, legal norms may be violated. Also, law-breaking may produce more immediate results with less effort – it may be easier to steal than to get a highly paid job. Essentially, Miller asserted that illegal behaviour is the expected response to certain situations of lower-class life.

Matza and Sykes

Perhaps the most influential work of Matza and Sykes is *Techniques of neutralisation* (1957). They asserted that delinquents often rationalise their criminal behaviour in advance; they present justifications for committing infractions of the law that are seen as defences or valid excuses for the law-breaking act using their own personal assessment. Thus, Matza and Sykes proposed that delinquency is not in opposition to mainstream society but in fact amounts to an 'apologetic failure'.

These justifications, called 'techniques of neutralisation', can be outlined as follows:

- *Denial of responsibility*. The young person contends that their behaviour is beyond their control – that it is the result of a deprived background, poor parenting, etc.
- *Denial of injury*. The young person argues that no one has really been hurt – for example, in the case of a burglary, the person can claim the money back from an insurance company.
- *Denial of victim*. This is the idea that the victim somehow deserved what happened to them, or that the criminal actions were in some way justified – for example, the victim was foolish to be walking home late at night on their own with their handbag open and their purse visible, or that the victim will quickly get over the incident.
- *Condemnation of the condemners*. The young person criticises those who condemn him/her as hypocrites, as spiteful, or as corrupt.
- *Appeal to higher loyalties*. This is the notion that the young person must support the group or gang, even if this necessitates breaking the law.

Sykes and Matza also discussed the notion that delinquency is made attractive by the exaggeration of what they call 'subterranean values'. These include three factors: the seeking out of excitement; the disdain for routine work; and the interlinked values of toughness and masculinity. They argued that these 'subterranean values' are visible throughout society and are in fact leisure ideas, but that the young delinquent will exaggerate these. The combination of these three elements, they argue, encourage lower-class males in the 'limbo' of adolescence to manufacture excitement by rule-breaking.

ACTIVITY 3.4

Discuss whether we can use the subcultural perspective to explain crime perpetrated by girl gangs.

The labelling perspective

In Chapter 2 we noted that more and more young people are being drawn into the net of youth justice services. Over the last few years we have witnessed a massive increase in the numbers of workers within the youth justice industry. This professional entrepreneurialism is resulting in an extension of the labelling process to ever increasing numbers of young people. Why as a society are we producing ever more young people who are coming into contact with the broad sweep of youth justice and anti-social agencies? How will this impact upon their lives: upon their image of themselves, how others perceive them and upon their life chances? Let's examine the ideas of two of criminology's most prominent labelling theorists in an attempt to answer these questions.

Lemert's primary and secondary deviations

Lemert, in *Social Pathology* (1951), examined the meaning of action upon the actor and others within the subject's interpersonal and social groups. He noted that while some types of interaction may lead to the actor normalising their behaviour and therefore regarding the behaviour as insignificant in the context of their personality, some interactions may lead the actor to fully take on board the self-perception of being labelled as deviant. Such a process, which Lemert argued promotes secondary deviation, is a kind of realignment or adjustment of self-identity based upon symbolic reactions. As a result of this a secondary deviation may be sparked off; the person now labelled as deviant will realign themselves within this definition and this may provoke the development of defensive or antagonistic feelings due to the isolating effects of the social stigma.

Lemert asserted that primary deviance has many causes but secondary deviance results from being labelled until one accepts the deviant role. This is an eight-stage process:

- The commission of the act of primary deviance.
- Social penalties that follow from this act.
- Possible further primary deviations.
- This results in stronger social penalties and possibly isolation and rejection.
- Further deviation may take place, which may lead to the formation of resentment, anger and hostility focused upon those who are administering sanctions.
- A crisis may then ensue in relation to the 'tolerance quotient' of society which may be expressed in terms of taking formal action against the deviant and stigmatising them.
- The deviant behaviour may be strengthened as a reaction to the stigmatisation and the application of sanctions.
- The person may eventually accept the label of 'deviant' and their self-image may be adjusted in order to accommodate this new social status.

Lemert argued that primary deviation refers to the initial acts of (usually) a juvenile that may provoke societal reaction; he contended that such primary acts of deviation may occur at random or have been precipitated by a diversity of factors. It is important to note that Lemert stressed that the initial act of deviance will have little effect upon the person's self-concept. However, secondary deviation has a direct causal link with the societal reaction and flows directly from it. Thus Lemert proposed that secondary deviations result as a realignment or reconsideration of self-concept. His thesis involved an acceptance that secondary deviation may lead to the creation of a new self-image, which is often overtly recognisable: 'Objective evidences of this change will be found in the symbolic appurtenances of the new role, in clothes, speech, posture and mannerisms, which in some cases heightened social visibility' (1951, p76).

Becker's outsiders

In his book *Outsiders: Studies in the sociology of deviance* (1963) Becker suggested that societies create deviance by generating and applying rules that cast certain people out of mainstream or normal society. These 'outsiders' are then left to wander beyond the limits of conventionality, suffering the sanctions that are meted out by respectable society and often being forced to adopt an alternative lifestyle as a result of this rejection. Becker did not just focus upon the creation of criminality but specifically investigated the creation of concepts of deviance and concluded that all deviants become the cast-outs of society; these include not only criminals but also those who are mentally ill or have mental disabilities, the homeless, political activists and homosexuals. The labelling theory essentially tackles the processes involved in creating 'difference' as a justification for the use of social and penal sanctions. He said:

Social rules define situations and the kinds of behaviour appropriate to them, specifying some actions as 'right' and forbidding others as 'wrong'. When a rule is enforced, the person who is supposed to have broken it may be seen as a special kind of person, one who cannot be trusted to live by the rules agreed by the group. He is regarded as an outsider. (Becker, 1963, p1).

Becker argued that there is no inherent quality to deviance, but that it is purely relative. He stressed that definitions of deviance are variable and asserted that society creates deviance by the application of rules that provide the facility to label and stigmatise those who breach the rules. Thus deviant behaviour is not related to the quality of the behaviour; there is no inherent definition of behaviours that are deviant within all societies. Deviance is a relative concept and is identified solely by the actions that follow the behaviour – the social sanction.

This process of manufacturing a deviant may depend upon perceptions of the person who has committed certain acts. Becker notes that boys from the lower classes are more likely to be perceived as delinquent than boys from middle-class backgrounds. Similarly, he alleged that the stigmatisation processes are also more likely to be applied to people of colour. Lastly, he noted that crimes committed by companies are not perceived as being as threatening as those committed by individuals, and thus white-collar 'criminals' may avoid social and criminal sanctions. As Becker suggested:

deviance is not a simple quality, present in some kinds of behaviour and absent in others. Rather, it is the product of a process which involves responses of other people to the behaviour. The same behaviour may be an infraction of the rules at one time and

not at another; may be an infraction when committed by one person, but not when committed by another; some rules are broken with impunity, others are not. In short, whether a given act is deviant or not depends in part on the nature of the act . . . and in part on what other people do about it. (1963, p14)

Additionally, Becker maintained that we cannot know whether or not an act is deviant until we have waited to see the reaction to it:

we must recognise that we cannot know whether a given act will be categorised as deviant until the response of others has occurred. Deviance is not a quality that lies in behaviour itself, but in the interaction between the person who commits an act and those who respond to it. (1963, p14)

Becker conjectured that there is no consensus within society and an absence of homogeneity leads to differing opinions about the acceptability of behaviours. He noted that society is highly differentiated on class, occupational, cultural and ethnic grounds.

Becker, like Lemert, was also interested in examining the effect upon individuals of the application of labels, and of how this may create a deviant career. In relation to this he commented that 'one of the most crucial steps in the process of building a stable pattern of deviant behaviour is likely to be the experience of being caught and publicly labelled as deviant' (1963, p31).

In this assertion, Becker echoes Lemert's ideas about the process of 'secondary deviation', whereby the person labelled eventually readjusts their self-concept and views themselves as criminal/deviant. In effect, he/she becomes what the label implies; this process amounts to an adaptation of the popular 'give a dog a bad name' argument. So Becker asserted that the process of labelling is a process which creates a self-fulfilling prophecy and that the formal and informal vehicles of stigmatisation that spring into action following the discovery of certain behaviour is, in effect, a course of action that seeks to 'conspire to shape the person in the image people have of him' (1963, p34).

ACTIVITY 3.5

Discuss the following question: To what extent is contact with the youth justice system counter-productive for children and young people who encounter it?

Radical/Marxist perspective

Becker's insistence that criminality and deviance were essentially social constructs, and that certain groups of people, who just happened to be the least powerful in society, had been singled out for special categorisation and stigmatisation, opened the floodgates for further critical appraisals that were to challenge the very nature of social order and lead to the politicalisation of crime, deviance and difference. The developments in the late 1960s and early 1970s within the field of sociology of deviance cannot be examined without a brief reference to the political climate in both Europe and the USA at the time. Anti-establishment demonstrations were taking place across Europe and the USA. Students

were occupying their universities; Sartre and Foucault were challenging the very foundation of knowledge and power; civil rights marches demonstrated outrage at the arrogance of the USA in relation to Vietnam; Malcom X represented black indignation and exhaustion at the barbarism of racism and social apartheid; women were angrily marching out of their kitchens; and the Stonewall riots encouraged lesbians and gay men to march out of their closets. All this, together with flower power, Woodstock and free love, challenged the very fabric of the status quo. Things would never be quite the same again.

It was the age of politicalisation, demonstration and rebellion. There was a re-examination of Marxist ideology by sociologists, and they liked what they saw. Demonstrations signalled a rebellion against traditional lifestyles and morality; they amounted to celebration of diversity. Politics were radicalised and resistance was not viewed as counterproductive, but as meaningful and political. Deviance itself became politicalised: it was not only criminals who were pushed under the umbrella of deviance – they were now in the company of nuts, sluts and queers. All 'difference' began to be seen as good, as political, positive, a challenge to the system. The labels themselves, which had once been the most powerful objects of oppression, were claimed and seen for what they really were – the instruments those in authority utilised to socially control those to whom they were directed. The deviant was not a passive actor (as the labelling theorists had implied) but a political rebel.

Radical theory viewed the deviant as active, as a rebel whose actions were in essence political. Personal deviance amounted to public challenge; breaking the law was a way of confronting the pervasive power of the state. As Sumner says, 'any sign of resistance was to be welcomed as political and meaningful . . . Deviance was politicised . . . it was politicised completely' (1994, p253).

The social and resistance movements that were emerging resulted in the growth of a unique perspective within the field of criminology/sociology of deviance. These contributions generally had a Marxist framework and have been called, variously, 'new criminology', 'radical criminology' and 'conflict criminology' (Quinney 1970; Young 1971; Taylor et al., 1973). The concerns of the theorists within this perspective were generally what they perceived had been seen as lacking from other theories (especially labelling), including: first, a full structural analysis; second, a focus on the unequal distribution of wealth and power within society; and last, a radical social and political analysis. Criminal law, it was argued, does not reflect the views of the majority but in fact serves the interest of the ruling class. Law corresponds with the economic conditions within society and will, therefore, inevitably support those conditions. The focus of the new movement in criminology was to provide an analysis of the nature of law. Crime, it was alleged, is a result of contradictions and inequalities inherent within a capitalist society. Crime is inevitable in an unequal society. The unequal distribution of wealth and power will foster rebellion and criminality. The solution to crime, therefore, does not lie in individual treatment or punishment, but in the creation of a new type of society.

ACTIVITY 3.6

Discuss whether you agree with the left idealists that all crimes are political in nature?

Realist criminologies

In the 1980s the Home Office began to fund research programmes that would consider cost-effective methods of crime control, based on neo-classicist notions that crime control interventions should focus upon the cost-benefit analysis of criminality: the idea that crimes are committed due to the availability of opportunities, and that resources should be targeted to decrease those opportunities and increase the risks in taking part in criminal activity. This new wave of criminological research was called 'new administrative criminology' and was posited on the acceptance that rather than sitting around discussing the possible causes of criminality, effective measures were needed to tackle the impact of crime. Two new strands of criminological thought began to develop over this period: the first was based on left-wing pragmatism and the second based in a neo-conservative remoralisation paradigm.

Left realism

Left realism came to life in 1984 with the publication of Lea and Young's text *What is to be done about law and order?* This work acknowledges that the lived realities of crime are indeed problematic and recognises the need to address victimisation in a practical and constructive manner. Jock Young in 1994 described left realism as follows:-

Left realism, as a critique of existing criminological theory, emerged in the 1980s . . . Its central aim is to be faithful to the reality of crime – to the fact that all crimes must, of necessity, involve rules and breakers (criminal behaviour and reaction against it) and offenders and victims. (1994, p102)

This approach espoused a practical criminology, based on empirical research: an acceptance that crime is inevitable and a recognition that crime is experienced disproportionately by those who are the least powerful within society. The left realists conducted local crime surveys in Islington the early 1980s in and these were later replicated across other metropolitan areas. It is arguable that the left realists are to be credited with providing the momentum for the (now yearly) British Crime Survey, a comprehensive survey of victimisation that is widely regarded as criminologically more valid than any other official method of collecting and recording statistics about crime. This movement also contributed to the recognition of the value of local crime statistics, local crime plans and the targeting of crime control strategies on the basis of sound evidence. Left realism can also arguably be credited with the adoption by the Government of the benefits of a multi-agency approach to tackling local crime problems.

Young posits ten points of left realism to comprise a co-ordinated, systematic approach to tackling the reality of crime. Of these we will concentrate on three pivotal facets, namely the square of crime, the theory of relative deprivation and the multi-agency strategy.

The square of crime

Left realism puts forward the idea of the 'square of crime' (see Figure 3.2). Any analysis of a criminal event should take into account factors that might impact upon each of the four corners/points of the square, namely the interaction between (1) the police; (2) other

agencies of social control; (3) the offender; and (4) the victim; ((1) and (2) cover the reaction to the crime event and (3) and (4) cover the act itself).

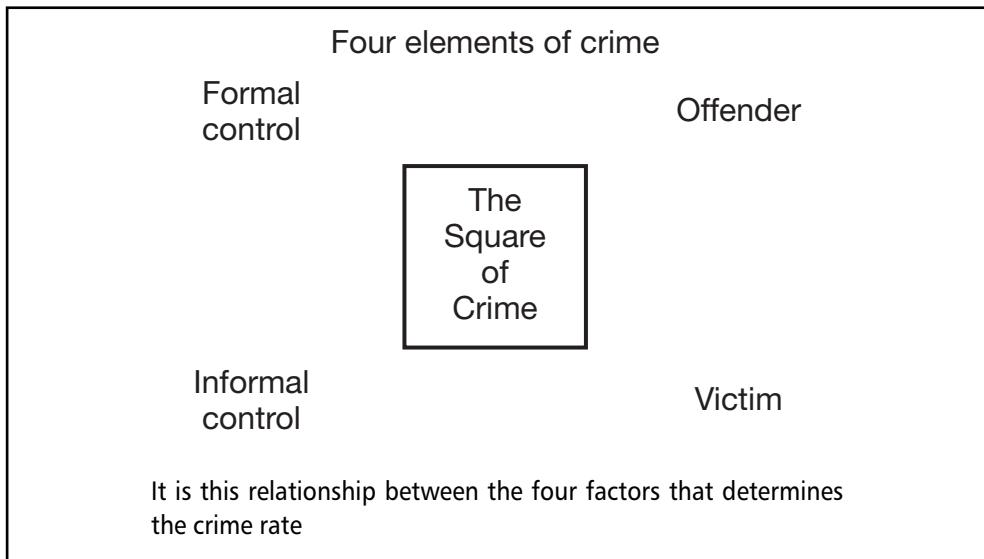


Figure 3.2 *The square of crime*

Figure 3.2 illustrates the concept of the 'square of crime'. At each point of the square we observe a factor that has contributed to the official measurement of crime in the form of the official crime statistics. In examining the creation of crime statistics we must refer to this four-fold aetiology, namely:

- Causes of offending (the domain of traditional criminology).
- Factors that make victims vulnerable (e.g. lifestyles).
- Social factors that affect public tolerance (e.g. towards smoking cannabis, violence, etc.).
- Police practice and enforcement.

The traditional focus of criminology was to concentrate only upon the factor in the top right-hand corner, namely the offender, and to consider causal aspects of their offending. Within this point on the square of crime we should, according to Young, analyse theories of crime causation which may go some way towards explaining the triggers of deviant behaviour.

Victims, at the bottom right-hand point of the square, are the second factor contributing towards the production of the crime rate. In relation to this factor, it is assumed that the victimised individual may in some way contribute towards their own victim status by their behaviour. For example, in order to avoid becoming a victim of crime a person may change their behaviour: not walking alone late at night, walking purposefully instead of slowly, wearing clothing that does not attract attention. A person's lifestyle might impact upon the chance of them becoming a victim of crime. Further other factors might affect their potential for becoming a victim by, for example, fitting car alarms, window locks, etc. Additionally, the victim's relationship with the offender may have a precipitative effect upon the outcome of their interactions.

Young asserts that most citizens of western societies are becoming more sensitive to and less tolerant of violence. This heightened sensitivity, to violent crimes in particular and all crimes in general, will lead to an increased willingness of the public to report incidences of perceived criminal behaviour to the police, thus contributing towards the increase in officially recorded crime. Indeed, Young says, realist criminology recognises that crime rates are a product not only of changes in behaviour, but also of changes in definitions of what is seriously criminal. A number of 'new crimes' have seemingly been discovered over the last 20 years, such as racial violence, child abuse, violence against women. He argues that the so-called 'civilising factor' within western societies has led to an increased sensitivity to anti-social behaviour generally.

Having examined the right-hand side of the square, we can see that these two points that contribute to the production of crime, the offender and victim interaction, provide an explanation of the criminal act but not of the societal reaction to it. Moving to the left-hand side of the square, we see that the other two points deal with the official and unofficial reactions to crime; Young calls these the social control elements that contribute towards the production of crime. With regard to the formal control agencies – the police, private security – Young asserts that these formal mechanisms contribute towards the production of crime statistics in a number of ways. The health of the relationship between the police and the public within a particular locality will contribute towards the production of crime statistics. A community that trusts its local police to investigate crime properly and fairly will be more willing to report crime than one that has lost faith in police fairness and efficiency. Further, this relationship will be affected by the level of perceived accountability of the police to the locality. Lastly a police force may decide to target particular types of crime and concentrate resources in certain areas, but this may produce a crime wave in another area.

The fourth point on the square of crime, informal public control, involves those controls the public may initiate, such as surveillance of a neighbour's property. It also includes the issues discussed earlier in relation to examining the victim's contribution towards crime statistics. There is less tolerance of criminality in general and specific types of crime in particular such as violent crime, and this increased sensitivity towards anti-social behaviour will in turn be transmitted via the democratic system into public opinion and media debate. Eventually it may lead to the creation of new crime by the legislature responding to public opinion and pressure groups.

Young asserts that it is the relationship between these four factors that determines the crime rate.

Relative deprivation

Left realists view the theory of relative deprivation as the most forceful explanation of crime, and note that other theories of criminology (e.g. anomie, subcultural theories) utilise the concept of relative deprivation. Young argues that relative deprivation is a potent notion because (a) it is not limited to the lower-class criminal and thus can be used to explain middle-class and corporate crime; (b) it is not concerned only with economic crimes but can be utilised to explain violent offences committed as a response to relative deprivation; and (c) it is not limited to absolute poverty and can explain the paradox of why some crimes of the economically deprived may focus upon obtaining the symbols of material wealth (e.g. designer clothes), rather than obtaining food and basic survival items.

The realists assert that there is no evidence to support a proposition that absolute deprivation leads to crime. They assert that this assumes that the causal flow is non-problematic. The process is not automatic. Not all people who are desperately poor commit crime; only some do. Young cites crime statistics of the 1930s during the Great Depression that indicate that crime rates decreased during this period of severe economic restraint. The realists propose that relative deprivation, coupled with the experience of unfairness with regard to the allocation of resources, leads the individual to seek a solution: this solution may involve law-breaking.

Multi-agency strategy

Young explains this as the co-ordinated response of social institutions to the issues of crime and disorder. He argues that the problem with unco-ordinated intervention based on a variety of policy of initiatives with no overarching rationale will inevitably be doomed to failure. Such interventions are often poorly resourced and may indeed overlap and possibly even conflict with each other.

The system of dealing with crime should not involve a uniform approach as different crimes require different processes. It is not merely the police, the Crown Prosecution Service and the courts who are involved in processing crime; various other agencies may handle a case at particular stages of its process. For example, the action taken to deal with an allegation of burglary will be markedly different from actions taken to deal with an allegation of child abuse. Young contends that any social control interventions in relation to crime reduction should involve all the agencies who may be involved in processing all types of crime. Table 3.1 illustrates the left realist's approach to multi-agency intervention in relation to crime control.

Table 3.1 The left realist's approach to multi-agency intervention

| Stages in the development of crime | Factors | Agencies |
|---|----------------------|------------------------|
| Causes of crime | Unemployment | Local authority |
| | Housing | Central government |
| | Leisure time | Businesses |
| Moral Context | Peer group values | Schools |
| | Community cohesion | Public |
| | | Family Mass media |
| Situation of commission | Physical environment | Local authority |
| | Lighting | Public |
| | Security | Police |
| Detection of crime | Public reporting | Public |
| | Detective work | Police |
| Response to offenders | Punishment | Courts |
| | Rehabilitation | Police |
| | | Social services |
| | | Probation |
| Response to victims | Insurance | Local authority |
| | Public support | Victim support |
| | | Local community groups |
| | | Social services |

ACTIVITY 3.7

Can you spot any similarities between left realism and the Labour government's approach to tackling youth crime?

Right realism

In the 1980s there was a growing cynicism about the effectiveness of the criminal justice process and pessimism regarding the perceived failure of criminology to put forward any viable proposals for the reduction of crime. Martinson's (1974) phrase 'nothing works' was adopted to describe a general dissatisfaction with crime control policies. These growing seeds of scepticism found fertile soil in the burgeoning conservatism that characterised the political landscape of both the USA and UK in the 1980s; there was a revitalisation of classicist notions of free will, choice, crime control, proportionality and deterrence. Further, there was a refocusing upon the individualistic theories of crime and a shift away from critical criminologies that had firmly placed the blame for crime on the state due to its failure to alleviate poverty, deprivation and inequalities that allegedly precipitated criminal behaviour.

The new right gurus of the underclass school in Britain were led by Charles Murray (1984, 1990), who transported his theory over the Atlantic in the mid-1980s. It was further developed in a UK context by Norman Dennis (1993) who asserted that many inner cities in the UK and other peripheral estates were becoming dominated by a growing 'underclass'. This underclass or 'job culture' supposedly consists of feckless young men who show disdain for work and of irresponsible single mothers who live on benefits and are unable to instil any traditional moral values into their children, who consequently fall into a life of crime. According to Murray, these people who are supported by welfare, seek pleasure in drugs and try to gain further income from illegal activities. This underclass culture is cyclical: without positive role models, young men who are inadequately socialised will take part in illegal activity to create excitement and to supplement their welfare benefits.

Murray claims that the underclass can be identified by reference to certain behavioural traits that are in evidence among sections of the poorer population. These factors, he alleges, are two-fold: welfare dependency and the tendency to commit petty crime. He stresses that these two behavioural tendencies are not irrational when contextualised in the lifestyles of the underclass and the incentives that are built into the system of welfare provision. He maintains that the behaviour is rational but only in terms of short-term gain. It is destructive in the long term, but the under-educated have no ability to defer gratification.

Murray traces the origins of the resurgence of the idea that there are two categories of poor people, the deserving and the undeserving. It could be argued that this split in the lower classes in the UK was caused by the 'drawbridge effect' of the policies of Thatcherism in the 1980s. The 'yuppyisation' of parts of the UK in the 1980s, which began to slow down by the end of the decade, had created a radical re-evaluation of the traditional class structure in Britain. In relation to the working classes it had caused disjunction – a lack of solidarity between the non-working and the working lower classes.

Murray made several assumptions about the nature of criminal behaviour. He claimed that single parenthood is a predictive factor in criminal behaviour and that habitual criminals are invariably young, male members of this underclass. Single parenthood, he alleged, is

encouraged by the provision of welfare and housing benefits. The welfare state produces a dependency culture and the proliferation of a 'culture of poverty'. Referring to young men and fatherhood, Murray argues that the growth of single parenthood among females has led to a loss of fatherhood responsibilities and the consequential 'civilising' effects of having to provide for children. He suggests that the welfare state encourages this situation and also promotes unstable and multiple relationships. Young boys in such an environment have no positive adult role models and the pattern of dependency is then repeated through generations. Murray describes the young male members of the 'underclass' as 'essentially barbarians, civilised by marriage' and argues that the features of the 'underclass' include crime, promiscuous self-indulgence, ungovernability, inability to defer gratification and lack of self-control. Murray concludes that crime is an easy option for these young men because of slim chances of being caught, low clear-up rates, and the tendency of magistrates and judges to give light sentences.

C H A P T E R S U M M A R Y

In this chapter we have examined some of the major theories that have shaped the historical development of criminological theory. An insight into mainstream causal explanations of offending behaviour should help your knowledge of the nature of crime, criminality and criminalisation. It is vital that you develop skills of criminological analysis to assist your understanding of young people who come before the courts who you will deal with in your youth justice practice. Pre-sentence reports produced by youth justice practitioners must analyse the reasons why the young person has committed the crime in question and assess possible risk factors. An ability to apply criminological theory to case-work is, therefore, vital in terms of enhancing your professional practice and the quality of your reports.

ACTIVITY 3.8

Bob and Sam are twins aged 18. Both live in the family home on a run-down inner-city council estate and they went to the same school. Their secondary school was average in terms of school league tables but had a high level of exclusions. Their parents are unemployed and in receipt of social benefits. Both boys associated with the same friends until the age of 15. Their mother is a recovering alcoholic and their father is a habitual criminal who has been convicted of burglary and several domestic assaults.

Bob was excluded from school at the age of 15 and has three convictions for possession of heroin, robbery and assault. Sam achieved three A grades in his A levels and is currently studying law at UCL.

Account for the criminality of Bob and the non-criminality of Sam.

FURTHER READING



Jones, S (2006) *Criminology*. Oxford: Oxford University Press.

This new edition provides a focus on explanations of criminality which are predominantly based on societal influences. The author also summarises genetic and psychological perspectives of crime causation and thus produces a full summary of major theories.

Tierney, J (2006) *Criminology: Theory and context*. London: Pearson Longman.

A second edition of an excellent textbook covering the major theoretical explanations of crime causation. It has an accessible style and provides an analysis of criminological thought within a historical context.

Walklate, S (2006) *Criminology: The basics*. London: Routledge. Chapter 4, 'The search for criminological explanation', provides an interesting summary of theory.

Chapter 4

The current legal framework of youth justice practice

Jane Pickford

A C H I E V I N G A S O C I A L W O R K D E G R E E

This chapter will help you begin to meet the following National Occupational Standards.

Key Role 1: Prepare for and work with individuals, families, carers, groups and communities to assess their needs and circumstances

- Evaluate all information to identify the best form of initial involvement.
- Assess needs, risks and options taking into account legal and other requirements.

Key Role 4: Manage risks to individuals, families, carers, groups, communities, self and colleagues

- Identify and assess the nature of the risk.
- Balance the rights and responsibilities of individuals, carers, families, groups and communities with associated risk.
- Work within the risk assessment and management procedures of your own and other relevant organisations and professions.

Key Role 6: Demonstrate professional competence in social work practice

- Review and update your own knowledge of legal, policy and procedural frameworks.
- Identify and assess issues, dilemmas and conflicts that might affect your practice.
- Assess needs, risks and options, taking into account legal and other requirements.

It will also introduce you to the following academic standards as set out in the social work subject benchmark statement:

3.1.1 Social work services and service users

- The relationship between agency policies, legal requirements and professional boundaries in shaping the nature of services provided in interdisciplinary contexts and the issues associated with working across professional boundaries and within different disciplinary groups.

3.1.2 The service delivery context

- The complex relationships between public, social and political philosophies, policies and priorities and the organisation and practice of social work, including the contested nature of these.
- The issues and trends in modern public and social policy and their relationship to contemporary practice and service delivery in social work.
- The significance of legislative and legal frameworks and service delivery standards (including the nature of legal authority, the application of legislation in practice, statutory accountability and tensions between statute, policy and practice).
- The significance of interrelationships with other social services, especially education, housing, health, income maintenance and criminal justice.

3.1.3 Values and ethics

- The moral concepts of rights, responsibility, freedom, authority and power inherent in the practice of social workers as moral and statutory agents.
- The complex relationships between justice, care and control in social welfare and the practical and ethical implications of these, including roles as statutory agents and in upholding the law in respect of discrimination.
- The conceptual links between codes defining ethical practice, the regulation of professional conduct and the management of potential conflicts generated by the codes held by different professional groups.

3.1.4 Social work theory

- Models and methods of assessment, including factors underpinning the selection and testing of relevant information, the nature of professional judgement and the processes of risk assessment.

3.1.5 The nature of social work practice

- The factors and processes that facilitate effective inter-disciplinary, inter-professional and inter-agency collaboration and partnership.
- The processes of reflection and evaluation, including familiarity with the range of approaches for evaluating welfare outcomes, and their significance for the development of practice and the practitioner.

3.2.2.3 Analysis and synthesis

- Assess human situations, taking into account a variety of factors (including the views of participants, theoretical concepts, research evidence, legislation and organisational policies and procedures).

Introduction

In Chapter 2 we examined the philosophies and history of our youth justice system. This chapter outlines the policy discussions and legislation that shapes contemporary youth justice practice. As a social worker within the youth justice industry you will need to be familiar with the law underpinning your practice and the rationales that guide the contemporary legal framework. We examine the contemporary legal framework governing youth justice and set out the current sentencing options for young offenders. We also analyse non-criminal orders, which have the force of civil law constraints on young people who take part in anti-social and disorderly behaviour.

ACTIVITY 4.1

As the contemporary legislation is discussed in this chapter, try to analyse the law in terms of the theoretical perspectives we examined in Chapter 2. For instance, which philosophical approach(es) are evident in current youth justice laws? Examine whether current legislation is similar to past statutes. Ideologically, does current practice represent a revolutionary break from history, or is it simply a reworking of old ideas?

The shaping of current laws

In order to understand fully the political momentum for the existing legal framework, it is necessary to revisit some of the debates about youth justice that were raging in the mid-1990s. I mentioned earlier (in Chapter 2) that various academics (Fionda, 2005; Hendrick,

2002; Jenks, 1996) have agreed that one case in 1993 changed the direction of youth justice policy and public opinion in relation to young offenders. This was the killing of the toddler James Bulger by two 10-year-old boys. The public outcry (largely media fuelled) that followed this case led to a 'moral panic' (Cohen 1973) about the law-breaking behaviour of children and young people. Indeed Jenks (1996) argued that the case led to the 'death' of childhood innocence and the subsequent 'demonisation' of youth.

From that point on, the tide of youth justice turned. Children were no longer pure and incorrupt; they were capable of the greatest evils. Hendrick (2002) argued that images of childhood became readjusted: we abandoned the 'romantic' model of childhood (that children are born innocent and so need protection from a corrupt society) and adopted the 'evangelical' model – that children are born capable of evil and so need to be firmly controlled. Media stories about young offenders allegedly being treated 'softly' by the juvenile justice system swayed public and political opinion towards an era of 'getting tough' on youth criminality.

The quasi-hysteria about the 'problem' of youth crime appears to make little sense when we analyse the statistical data for that era. According to published criminal statistics the number of young offenders aged 10 to 17 found guilty or cautioned of an indictable offence fell by 30 per cent between 1987 and 1997. According to NACRO (1999), 'since 1987, the number of male juvenile offenders has fallen by 33% and female young offenders by 17%'.

However, the number of young people receiving custodial sentences rose over that period. Whereas the numbers of young offenders detained under sentence fell by approximately 50 per cent between 1980 and 1993, this figure rose by almost 56 per cent in the four years up to and including 1997. In addition to the media frenzy, this rise also corresponded with the development of a definition of the so-called 'persistent offender' over this period and the 'getting tough' policies in relation to those so categorised.

The political debates surrounding the run-up to the 1997 general election promised a 'law and order' agenda from all the major parties. The Labour Party's promise to get 'tough on crime, tough on the causes of crime' extended to youth crime. Once in office, they established a Youth Crime Task Force and the momentum for reform of criminal justice continued, with no less than seven consultation papers being released, five of which were directly related to youth justice:

- *Tackling youth crime* (Home Office, 1997g)
- *Preventing children offending* (Home Office, 1997e)
- *Getting to grips with crime* (Home Office, 1997b)
- *Tackling delays in the youth justice system* (Home Office, 1997f)
- *No more excuses: A new approach to tackling youth crime in England and Wales* (Home Office, 1997d)
- *Community safety order* (Home Office, 1997a)
- *New national and local focus on youth crime* (Home Office, 1997c)

The government argued that the reason for change stemmed from the negative comments about the organisation of youth justice practice discovered by the Audit Commission and noted in their report *Misspent youth* (1996). The consultation papers of 1997 outlined the Labour Party's stated proposals for youth justice practice, noting that the current system was in disarray:

The youth justice system in England and Wales is in disarray. It simply does not work. It can scarcely be called a system at all because it lacks coherent objectives. It satisfies neither those whose principal concern is crime control nor those whose principal priority is the welfare of the young offender. (Home Office, 1997g)

The Crime and Disorder Act 1998

Following these 'consultation' papers (Fionda (2005) points out that the consultation deadline allocated for *No more excuses* ended after the Bill had been published!) the Crime and Disorder Act was passed in 1998. The Act promised a 'root and branch' overhaul of the youth justice system to be implemented over a number of years, following the establishment of and feedback from pilot schemes and pathway sites, which tested the ground of the new reforms (one might argue that pilot schemes and viability should be tested prior to passing legislation). Section 37 of the Act emphasises the primary aim of prevention and states: 'It shall be the principal aim of the youth justice system to prevent offending by children and young persons'. It also places a duty on all personnel working within the youth justice arena to have regard to this paramount aim while carrying out their duties.

In order to deliver the principal aim, the Home Office Juvenile Offenders Unit set out a number of key objectives for the reformed youth justice system:

- Tackling delays – halving how long it takes for young offenders to be processed from arrest to sentence from an average of 142 days in 1996 to a target of 71 days (this has been achieved).
- Confronting the young offender with the consequences of their offending and encouraging responsibility for actions.
- Intervention into 'risk factors', including family, social, personal and health factors.
- Introduction of a new range of penalties in order to enable sentencers to punish in proportion to the seriousness and persistence of offending.
- Encouragement of reparation.
- Reinforcement of parental responsibilities.

The Act set out six key themes (noted below) that would assist in achieving the above objectives.

Partnership and multi-agency working

Sections 6 and 7 of the Act encourage the development of local partnerships to provide a local framework and strategy for identifying crime and disorder problems within a particu-

lar locality. Section 39 required local authorities to establish multi-agency Youth Offending Teams (YOTs) by April 2000, bringing together professionals from social services, police, health, education and probation. Teams must produce an annual youth justice plan for tackling crime within their area of responsibility. (Multi-disciplinary YOTs are discussed in Chapter 5.)

Tackling offending behaviour and providing early intervention

This key theme is actioned by the following measures:

- Child safety orders (Section 11), placed on a child under the age of 10 to prevent him/her from growing into criminal behaviour.
- Local child curfews (Section 14), aimed at preventing anti-social behaviour in local areas by children under the age of 10 (raised to 16).
- Final warnings (Section 65), replacing the cautioning system with a fixed procedure for diversionary disposals.
- Action plan order (Section 69), a three-month, intensive order that combines elements of reparation, punishment and rehabilitation to help prevent re-offending and include parental involvement.

The first two of these orders have been subsequently supplemented by the Anti-Social Behaviour Act and the introduction of acceptable behaviour contracts and individual support orders (see Chapter 2 for a discussion of these and a list of agencies that have developed to implement this expansionist agenda). This reflects the government's commitment to tackle both crime and social disorder. These civil measures (many of which have criminal consequences if breached) are part of a focus on preventionism and extend the reach of the youth justice system beyond offenders to those who are deemed anti-social or at risk of offending. (The human rights implications of these orders are discussed in Chapter 1; the dangers of net-widening and stigmatising are covered in Chapter 2.)

The action plan order, which was introduced in 2000, is aimed at young people who are low-level offenders or who find themselves in front of a courtroom for the first time. The order is a short term (three-month) package of YOT intervention aimed at 'nipping offending in the bud'. This order was widely used over the first two years of its availability but has been less in evidence since the availability (from April 2002) of the (mainly compulsory) sentence of a referral order for young people appearing in court for the first time.

Focus on reparation

Section 67 establishes the reparation order, designed to help the young person face up to the consequences of their offending behaviour. The young person may be required to make reparation to the actual victim of their crime or to the local community generally. The theme of responsabilisation is evidenced in this order, which encourages the offender to contemplate the actual impact of their law-breaking in terms of the injury and suffering caused to victims. Anecdotal accounts from practitioners indicate that this order is not widely used, as elements of reparation can be part of several more comprehensive community sentences. Reparation is also a central theme of the referral order, introduced in 2002.

Focus on parenting

Section 8 of the Act reinforces parental responsibility by introducing the parenting order. This is aimed at 'helping' parents, through support and guidance, to control the anti-social behaviour of their children. Such an order may place specific responsibilities on a parent, for example to impose a curfew on their child. In addition to the existing powers to fine and bind-over parents, the order represents a further move to hold parents responsible for the sins of their offspring and provides the Government with a way of punishing parents by means of a potentially criminalising sanction for their presumed failure to properly care for or bring up their child. It remains to be seen how much further this country will move down the pathway of parental punishment and also, how far we will continue to usurp and supplant the parental rights of those we consider to be bad parents by the use of anti-social behaviour orders, acceptable behaviour contracts, curfew orders, individual support orders, child safety orders and even remands in local authority accommodation. You may find it useful to monitor the types of parents who become subject to parenting orders and other intrusive orders in your area of practice in terms of their socio-economic backgrounds; for instance, whether it is predominantly single parents or co-parents who are targeted for such interventions.

More effective custodial sentences

Section 73 established a new detention and training order, implemented from April 2000. This purported to be a constructive and flexible custodial sentence with a clear focus on preventing re-offending behaviour. The order can be used by Youth and Crown Courts in respect of all young offenders under the age of 18 who have been convicted of an offence that if committed by an adult would be an imprisonable offence. If the child is aged 10 or 11, a further order will be required by the Home Secretary to allow such a sentence to be passed. The sentence is supposed to be 'seamless', though half the order is spent in detention and the other half under supervision in the community. The numbers of young people being sentenced to custody has continued to increase. As Bateman has noted (2003) though, the number of children and young people locked up in this country has received 'damning' criticism from the UN Committee on the Rights of the Child. Indeed the Youth Justice Board noted that: the expansion in the use of youth custody which began in the 1990s has continued unchecked since the implementation of the Crime and Disorder Act'. Recent statistics show that this rise has continued (Youth Justice Board, *Annual Statistics* 2004/05; see YJB website for the most recent figures).

A national framework

Section 41 sets up the framework for the national Youth Justice Board's operation. This is to encourage and monitor nationwide consistency in the implementation of the system of youth justice, to draw up standards for service delivery and to help disseminate good practice. (The role of the YJB is discussed in Chapter 5.)

ACTIVITY 4.2

In reference to Activity 4.1 above, can you identify which theoretical perspectives underpin the Crime and Disorder Act 1998?

The Youth Justice Criminal Evidence Act 1999

The Youth Justice and Criminal Evidence Act 1999 (as amended by the Powers of the Criminal Courts (Sentencing) Act 2000) gave effect to further reforms proposed in the 1997 White Paper *No more excuses* (Home Office, 1997d). It created a new (largely compulsory) sentence of a referral order for young people convicted for the first time. The young person is referred by the court to a Youth Offender Panel (YOP) drawn from the local community (established by YOTs) and serves the sentence for a period of between three and 12 months. A 'contract' is drawn up with the young offender and their parents, specifying the details of the order; each contract is tailor-made to suit the needs of the young person. The referral order is designed to address offending behaviour, in an attempt to prevent further offending. The order should include reparation and can also involve community work, curfews, mediation, contact with the victim and participation in specified activities or education programmes.

The new YOPs resemble the system adopted in 1971 in Scotland to deal with young offenders (see Pickford, 2000, Chapters 8 and 9). The similarities with the Children's Hearings north of the border are clear: parents are to play a crucial role in attending and being asked to help prevent anti-social behaviour; other significant adults, such as social workers or teachers, may also be required to be present; victims are able to attend panel meetings and explain to the young offender the effects of their criminal behaviour and suggest appropriate reparation; the meetings are conducted informally, without the presence of a legal representative; and the young person is encouraged to participate fully in the proceedings. Once the order is completed, the young person's offence is 'spent' for the purposes of the Rehabilitation of Offenders Act 1974.

Basically, a referral order will be made against all young people who are convicted of a first offence, except where:

- the court orders an absolute discharge;
- the sentence for the offence is fixed by law;
- the court decides to make a custodial sentence; or
- the offence is one that is non-imprisonable (2003 amendment).

It should be noted that the offender must have pleaded guilty to the offence (or to one offence, if charged with more than one offence). The type of requirements that can form part of a 'contract' include:

- Financial or other reparation.
- Attendance at mediation sessions.
- The carrying out of unpaid work in the community.
- Being at home at specified times.
- Attendance at school, training or work.

- Participation in specified activities (e.g. attending drug treatment centre).
- Presenting to named persons or institutions as and when specified.
- Avoiding specified places or persons.

Some problematic issues have arisen despite the 'flagship' status this order seems to have been given by the Government. These include:

- A low level of attendance of victims at panels – 13 per cent during the pilot period (Earle, 2005).
- The fact that legal representation is prohibited.
- These informal meetings follow no set procedures, due process requirements are not followed and each Panel tends to reflect the character and attitude of the Panel members. Thus 'justice' is meted out in an inconsistent, non-standardised manner (see Crawford and Newburn, 2003).
- A 'contract' implies equality of bargaining power, yet the young person must 'agree' to the 'contract' or be referred back to court for non-compliance (see Pickford, 2000).
- No appeal is allowed.
- As this sentence is largely compulsory, young people who have committed trivial offences may face a minimum of a three-month order. This may be considered an 'over-reaction' to the original wrongdoing.
- Sentencers are not able to exercise discretion in sentencing: if the criteria for the referral order sentence are satisfied, sentencers must make a referral order – although they have discretion as to length of the order. Earle (2005) remarks that youth magistrates resented the curtailment in their powers following the implementation of the order in April 2002; this led to the government (Home Office, 2003b) extending discretion to issue other sentences where the offence is non-imprisonable. However, this concession only related to a small number of situations, e.g. motoring offences.
- In some areas panel volunteers might not reflect the social class, economic, sex, religious or racial background of the community from which they are drawn (Crawford and Newburn, 2002).
- The system relies on volunteers who are unqualified to make decisions about the sentence content of young offenders on court orders. How does this square with the overall move towards professionalisation, standardisation and evidence-based practice of youth justice?

However, as Earle remarks: 'Stationed at the gateway of the new system are over 5000 volunteers. Each year they greet approximately 27,000 young people with a novel experience of justice' (2005, p105).

ACTIVITY 4.3

In reference to Activity 4.1 above, can you identify which theoretical perspectives underpin the Youth Justice and Criminal Evidence Act 1999?

The current sentencing framework

Issues relating to bail, remand and the diversionary disposals of reprimand and final warning are covered in Chapter 5. This section examines the current disposals available to youth magistrates and crown court judges in relation to young people aged 10 to 17 years. Table 4.1 details the various disposals that can be used.

Table 4.1 The current disposals available in relation to young people aged 10 to 17 years

| Sentence | Age range | Nature and content of sentence | Possible length of sentence |
|--|-------------|--|------------------------------|
| Discontinued or dismissed or withdrawn | 10–17 years | The case is dropped because it is decided by the Prosecution Service that there is not enough evidence against the young person or that it is not in the public interest to prosecute. | Not applicable |
| Reprimand | 10–17 years | A verbal warning given by a police officer for a minor first offence where guilt has been admitted. | One meeting |
| Final warning | 10–17 years | A verbal warning given by a police officer for a first or second offence where guilt has been admitted. A short intervention/series of meetings takes place, usually co-ordinated by police officers attached to the local Youth Offending Team (YOT). | Up to 12 weeks |
| Absolute discharge | 10–17 years | The young person has admitted guilt or been found guilty but no formal sentencing action is taken. | Not applicable |
| Conditional discharge | 10–17 years | The young person must stay out of trouble for a specified period. If they do, no immediate punishment is given: if they don't they can be re-sentenced. | Between 6 months and 3 years |
| Referral order | 10–17 years | Given to a young person who pleads guilty and is appearing in court for the first time. Compulsory unless the court issues custody, an absolute discharge or the offence is non-imprisonable or fixed by law. (Content noted above.) | Between 3 and 12 months |
| Fine | 10–17 years | This should be proportionate to the crime and means are taken into account. If the young person is under 16 the parents/guardians will be responsible for payment. | Not applicable |
| Compensation order | 10–17 years | As main sentence or as an ancillary order. Paid to the victim for loss/damage. Should take into account the amount of loss/damage and the means of the offender (or parents, if under 16 years). | Not applicable |
| Reparation order | 10–17 years | Requires that the young person makes amends for the offence either directly to the victim or indirectly via community work. Supervised by YOT. | Up to 24 hours over 3 months |

| Sentence | Age range | Nature and content of sentence | Possible length of sentence |
|---|---------------------|---|--|
| Action plan order | 10–17 years | A short, intensive order supervised by YOT to address the offending triggers for that young person. Can include attending YOT for offence counselling and victim awareness sessions, drugs awareness, community work, education and training sessions, etc. | 3 months |
| Curfew order | 10–17 years | As main sentence or as an ancillary order (or as part of an ISSP). Must remain at a specified place for a specified period. Electronically tagged or with a 'doorstep' requirement. (Curfew can also be given as part of a bail package – see Chapter 5.) | Between 2 and 12 hours a day for up to 6 months (16 and above) or 3 months (under 16s) |
| Attendance centre order | 10–17 years | Must attend the local attendance centre (usually run by the local police) on Saturdays and undertake positive activities prescribed by the co-ordinating officer. | From 4 to 24 hours |
| Supervision order | 10–17 years | Order run by YOT tailored to fit the needs of the offender with regard to preventing recidivism. Content can be decided by the YOT but the court can add specific conditions. Typical conditions include attending YOT offence counselling and victim awareness sessions, drugs awareness, community work, anger management, education and training sessions, etc. Can also include residence requirement and a curfew. Voluntary conditions (such as sessions with a psychotherapist) can be added. Since 2003, an intensive supervision and surveillance condition can be attached – for a period of up to 6 months. | 6 months to 3 years |
| Intensive supervision and surveillance order | 10–17 years | Includes 25 hours of specified activities per week attached to the start of a supervision order or community rehabilitation order as an intensive alternative to custody for serious/persistent offenders. The activities must be specified in the pre-sentence report and can include any of those noted under supervision orders above. The young person can also be subject to surveillance for part or all of the ISSP period (e.g. by electronic tagging). (Note: an ISSP can also be given as part of a bail package – see Chapter 5; or as part of the community element of a detention and training order – see below). Supervised by local provider (e.g. NACRO) in tandem with YOT/probation. | 6 months – intensive (25 hours) for first 3 months then at a reduced level for second 3 months |
| Community rehabilitation order | 16-17-year-olds | This is similar to a supervision order (see above) but aimed at older offenders. It can be supervised by YOT or transferred to the probation service when the young person reaches 17/18. An ISSP can be attached (see above). | 6 months to 3 years |
| Community punishment order | 16 and 17-year-olds | The young person must do unpaid community work for a specified time period. | 40 to 240 hours |
| Community punishment and rehabilitation order | 16 and 17-year-olds | A combination of the above two orders. | 12 months to 3 years plus 40 to 100 hours |

| Sentence | Age range | Nature and content of sentence | Possible length of sentence |
|---|-----------------|---|-----------------------------|
| Detention and training order | 12–17-year-olds | The young person spends the first half of the sentence in custody and the other half under supervision (usually by the YOT) within the community doing activities listed in the supervision order, above. The sentencing court can specify that for this second part of the order the young person should be placed on an ISSP (see above). | 4 months to 2 years |
| Sentence under S90 or 91 for grave offences | 10–17 years | Under the Powers of the Criminal Court (Sentencing) Act 2000 a young person who is convicted of a murder or a 'grave crime' (i.e. one for which an adult could be sentenced to 14 years in custody) can receive the same statutory maximum as an adult. They will be automatically released at the halfway point on licence (CJA 2003). YOT/probation will supervise them up to the three-quarter point. (See also the Criminal Justice Act 2003 sentencing powers regarding 'dangerousness', below.) | Indefinite |

If a young person does not comply with the community penalties listed in Table 4.1 s/he will be brought before the court and the relevant supervising authority (the local YOT, the probation service or the curfew monitoring body) will initiate breach proceedings. It is the practice of many YOTs to breach orders after three failures to comply/attend. If the supervising body can prove the breach (or it is admitted) the court is able to reinstate the order or to re-sentence (usually to a harsher disposal).

It is apparent from Table 4.1 that a wide range of sentences are available to magistrates and judges. As noted in Chapter 2, academics have commented on the vast choice and referred to a 'cafeteria' style of justice for young offenders (Ashworth, 2000). In terms of criminological theory, the sentencer is able to hand pick a 'bespoke' (Fionda, 2005) sentence to fit the particular circumstances and needs of the young person. This is arguably a positivist's dream system! However, are there too many sentencing options? The government is currently (summer 2006) discussing a reduction in sentencing choice, which we will examine in Chapter 9.

Additional orders

Further to the above sentences, the following additional orders can be made. These orders were introduced either by the Crime and Disorder Act 1998 or by later statutory amendments (see next section, below). The orders listed in Table 4.2 include civil orders that can be sought as controlling measures for young people who have not been found guilty of any criminal offence. It should be noted that a child curfew order is a civil order that

should be differentiated from a curfew order that can be used as a single or additional sanction for a criminal act. The restrictive nature of these measures in terms of civil liberties is commented on in Chapter 1.

Table 4.2 Additional orders

| Type of order | Age range | Nature content of order | Time limits |
|-------------------------------------|--|--|--|
| Anti-social behaviour order (ASBO) | 10 years and above | This is a civil order. ASBOs can be made by local authorities, the police, British Transport Police, Social Landlords and Housing Action Trusts or by other relevant authorities. An ASBO is made where the person has acted in an anti-social manner which has caused or is likely to cause harassment, alarm or distress. Individualised conditions can be attached requiring the person not to go to certain areas, near certain people, participate in certain activities, etc. Breach can amount to a criminal offence with a maximum punishment of a 2-year DTO. An interim ASBO can be obtained, pending a full ASBO hearing. | 2 years plus (no specified upper time limit) |
| Acceptable behaviour contract (ABC) | Any age group – primarily aimed at 10–17 year olds | This is a civil order whereby a local authority draws up an agreement that specifies that the young person must desist from certain lower-level anti-social behaviour. Intervention by a YOT or social worker may additionally be agreed. Breach of an ABC can be used as evidence for the issuing of an ASBO. | No specified upper time limit |
| Individual support order (ISO) | 10–17 years | A civil order introduced in May 2004. It is applied for by local authorities (usually the anti-social behaviour unit/team of a local authority) and intended to provide support for young people subject to ASBOs to prevent the behaviour that led to the ASBO being made. Managed by YOTs. Breach can be deemed a criminal offence with a fine of up to £1,000 (payable by parents if the young person is under 16). | Up to 6 months |
| Dispersal order | No age limit | Introduced by the Anti-social Behaviour Act 2003, this order enables the police and local authority to identify problem areas where people feel threatened by groups congregating, causing intimidation and acting in an anti-social manner. Police or community support officers can direct individuals to leave an area for up to 24 hours. Until 2005 the police had been able to take under-16s home after 9pm if they were within a designated area and not under the control of an adult. However, this power was successfully | Up to 6 months |

| Type of order | Age range | Nature content of order | Time limits |
|----------------------------------|--------------------------------|---|--|
| | | challenged in <i>R (On the Application of W) v Commissioner of Police of the Metropolis and Richmond Borough Council [2005] EWCA Civ 1568</i> . Now the police can only ask that the young person return home. | |
| Child safety order (CSO) | Under 10s | A civil order imposed on a child (i) who does an act that, had they been aged 10 or above, would have amounted to a criminal offence; (ii) has caused distress, alarm or harassment or (iii) has breached a child curfew order. Supervised by a social worker. Breach can result in the child being placed under a care order. | Up to 12 months |
| Local child curfew | Under 16 (including under 10s) | A civil order (obtained by a local authority or police) that bans the child/young person from a particular area during specified hours due to them causing distress to residents. If a child under 10 breaches this order, they can be given a child safety order (above). | Between 9pm and 6am for a period up to 90 days |
| Parenting order | Not applicable | A civil order given to parents/guardians of young people who have offended, truanted, been subjected to an ASBO, CSO or sex offender order. Parent must attend guidance sessions and could additionally be required to ensure that the child attends school, is supervised when visiting certain places and/or is home by a specified time. Failure to comply can lead to prosecution and a criminal offence. | Between 3 to 12 months |
| Drug treatment and testing order | 10–17 years | Used in addition to any community sentence for young people who have committed drug offences or are assessed as having offended due to drug-related issues. (Any offender can now be tested for drug use at the police station when charged with an offence.) Supervised by YOT or probation service. | Between 6 months to 3 years |
| Costs order | 10–17 years | (In existence prior to the 1998 Act). After a court hearing where the young person has pleaded or been found guilty, they (or their parents if under 16) can be ordered to pay a contribution towards prosecution costs. | Will be given a specified time to complete payment |

From the discussion of all the sentencing disposals and other additional measures that can be used by the state in its endeavours to control youth disorder, it is possible to understand why some academics (noted above) have indicated that the current system may amount to overkill and that some re-evaluation of the direction in which youth justice is moving is becoming increasingly necessary.

ACTIVITY 4.4

Jim (aged 15) has been convicted of an offence of Attempted Theft (found guilty after trial). In evidence, Jim admitted that he was in the area at the time of the offence with the co-defendant (aged 18) as they had been to the West End to see a film. He stated that after the film ended both he and the co-defendant made their way to the nearest tube station (which he believed was Piccadilly Circus) in order to make their way home. Jim recounted that the tube station had been temporarily closed and that guards were not allowing anyone onto the platforms, so he and the co-defendant made their way out of the tube station in order to take a bus home. Jim stated that he was then stopped by a police officer, asked several questions, and was then processed for this offence.

This version of events did not accord with the account of events provided by the Crown Prosecution Service. Jim denied observing a man withdrawing money from a cashpoint machine, denied following him into a newsagent's shop and denied making any attempts to remove any items from the man's bag or being a secondary party to any such activities. The Magistrates accepted the Prosecution's evidence and found Jim guilty. However, although Jim has been found guilty for this matter, he maintains his innocence incontrovertibly and refuses to take any responsibility for this offence.

Jim is a refugee from Romania. According to Jim and his elder cousins with whom he fled Romania and with whom he now resides, they have been in the UK for about two years. The borough's Children and Families Team now accommodates this family unit. Jim's allocated social worker is responsible for Jim's general welfare. The borough pays for the accommodation and Jim receives a subsistence allowance of approximately £142 every four weeks. His cousins are also in receipt of subsistence money. Jim has lost contact with his mother and father. His father left Romania with Jim's elder brother aged 16, and while Jim believes that his mother is still in Romania he has not been able to contact her. Jim has not had any formal schooling for approximately three years; attempts to find special educational placements for him since he has been under the guidance of the council have not yet borne fruit. In terms of career ambitions, Jim stated that he wishes to become a mechanic. Jim recounted that he spends his time watching TV and videos (which, he stated, assist him to learn English), reading English self-learning texts and playing football in a team with some friends.

Jim received a four-month referral order a year ago (which he has completed successfully) for a matter of handling stolen goods.

- *What risk factors are in evidence?*
- *How can these be reduced?*
- *What sentence might you recommend for Jim and why?*
- *Are any ancillary orders appropriate?*

Other significant legislative changes

Although no statute specifically addressing youth justice practice has been passed following the 1998 and 1999 Acts, the staged implementation meant that many of the reforms are still considered to be relatively 'new' by seasoned youth justice practitioners. However, other statutes covering criminal justice generally have been passed and some of these have impacted upon youth disorder and criminal justice procedures (some of which are included in the Tables 4.1 and 4.2 above). Social workers need to be familiar with these recent changes. Furthermore, the government has released various consultation papers in relation to children and young people that have implications for future practice. In this section we explore further recent measures that are currently in force. The most important reform proposals for the future will be examined in Chapter 9.

Powers of the Criminal Courts (Sentencing) Act 2000

This Act introduced special measures for young people who have committed 'grave crimes' (see Table 4.1). Section 90 deals with young offenders convicted of murder and requires them to be detained 'during Her Majesty's pleasure'. This is an indeterminate sentence and the sanction is equivalent to the mandatory 'life' sentence for adults. The young person must serve a mandatory minimum (tariff) period fixed by the court. They will stay in custody until the end of that period. After that, they can then be released only with the permission of the parole board and will remain on 'licence' for the rest of their life.

Section 91 covers the procedure for other 'grave crimes' – primarily crimes for which an adult can be sentenced to 14 or more years in custody. Generally, the court is given the same maximum sentencing limits for young people charged with these crimes as adults. As Bateman (2005) has noted, since this Act 'a succession of legislative changes has brought an ever greater number of offences within the ambit of section 91' leading to a dramatic increase in long-term custodial sentences for young offenders (2005, p160).

Criminal Justice and Police Act 2001

Section 23 allowed electronic tagging as a condition of bail, including those on remand to local authority accommodation. Prior to this Act a court could only deprive a young person of their liberty while on remand if this was the only measure that could protect the public from serious harm. However, Section 130 allows a remand to custody (or secure accommodation) of a young offender whose offending is deemed persistent (including offending while on bail).

Justice for All

This White Paper (Home Office, 2002) proposed that trials for serious offences, now held in the Crown Court, should be heard in the Youth Court by a judge sitting with youth magistrates. This has not been implemented.

Criminal Justice Act 2003

This statute introduced new provisions for custody regarding young people (and adults) convicted of certain violent or sexual offences who are judged by the court to be 'dangerous'. New orders were introduced in December 2005 giving additional sentencing powers; these include (1) extended sentencing and (2) indeterminate sentence for public protection. The philosophical approach to these provisions is preventionism (see Chapter 2) and custodial orders are made on the basis of protection of the public rather than on the basis of proportionality. Under the new provisions the maximum sentence for such crimes committed by young people who fall within these categories can be increased.

Under category (1) if the young person has committed a sexual or violent offence for which an adult could receive two years or more and the court deems that there is a significant risk of serious harm to the public, they could receive extended detention which involves a licence extension of up to eight years for a sexual offence and five years for a violent offence. Young offenders who fall within the latter category (2) have committed a violent or sexual offence carrying a maximum penalty of ten years or above for an adult, and thus become eligible for an indeterminate sentence. Practitioners should monitor the use of these provisions, which could potentially further increase the use of long custodial disposals for young offenders.

Other provisions of the CJA that impact upon youth justice include:

- The use of a generic term for all community based disposals for young offenders – 'youth community order';
- While the community punishment and community rehabilitation orders are no longer available to adults, they are still available to 16 and 17 year olds.
- The general admissibility of 'bad character' introduced in criminal proceedings.
- YOTs are to comply with risk assessments under Multi-Agency Public Protection Arrangements (MAPPA).
- Privacy issues regarding the hitherto protective restrictions imposed on courts: courts can now release the names of those convicted of a crime and those against whom a post-conviction ASBO has been made.

Anti-Social Behaviour Order Act 2003

This Act extended the powers of public bodies in relation to civil orders associated with anti-social behaviour (as noted in Table 4.2). Significant extra measures, in addition to powers already granted (in relation to ASBOs and ABCs), included:

- Expansion of the range of authorities/bodies that can seek ASBOs.
- Introduction of a presumption in favour of making a parenting order where an ASBO is made against a young person under 16.
- Introduction of a presumption against reporting restrictions.

- Allowing hearsay evidence to be used.
- Introduction of individual support orders (ISOs) which can be ordered to run alongside ASBOs.
- Introduction of penalty notices for disorderly behaviour by young people (largely proved to be unworkable).
- Introduction of group dispersal orders.

Youth justice – The next steps and Every child matters

The Green Paper *Every child matters* (Home Office, 2003a) outlined proposals for reforming children's services generally and led to the Children Act 2004 (below). Alongside this paper the government published a companion document, *Youth justice – The next steps* (Home Office, 2003d), a separate consultation document covering proposed future reforms to the youth justice system. Though these have not been passed into legislation at the time of writing (summer 2006) it is useful to outline the major proposals, as they indicate the government's current plans for youth justice reform. These proposals are discussed in Chapter 9.

The Children Act 2004

This Act puts into effect many of the proposals relating to reforms in children's services outlined in *Every child matters*. While the Act deals with issues raised in relation to the investigation into the death of Victoria Climbié and covers mainly non-youth offending matters, some areas of reform will impact upon social work practice generally. Especially notable are:

- The establishment of the Children's Commissioner for England to raise awareness of best interests of children and young people, to examine how public bodies deal with them and consider their wishes, to examine how complaints are investigated and report annually to Parliament.
- Local authorities are to create Directors of Children's Services to cover education and social services.
- The encouragement of local authorities to create co-operation and to pool resources between agencies who deal with children and young people in order to improve their well-being in five key areas: health, safety, achievement, making a positive contribution and economic well-being.
- Placing a duty on key agencies to make sure that they safeguard and promote the welfare of children and young people and the creation of Local Safeguarding Children's Boards.
- Secondary legislation and guidance will be issued to allow the creation of databases to assist information sharing about children and young people.
- The creation of a new inspection format and regular Joint Area Reviews.
- Promoting the educational achievement of looked after children.
- Strengthening local fostering arrangements.

Youth justice 2004: A review of the reformed youth justice system (Audit Commission)

The comments of the Audit Commission in its latest review of youth justice services (2004), could have some impact upon future government proposals. These are covered in Chapter 9.

ACTIVITY 4.5

Discuss whether there are now too many options for dealing with young people who offend or take part in behaviour deemed to be disorderly or whether it is right for the government to have a variety of measures to deal with non-conforming youths. What are the implications of this expansion of youth control measures?

Future youth justice legislation

This chapter has discussed current law and practice. We review future legislation – the consultation paper *Youth justice – The next steps*, the Government's 2005 Green Paper *Youth matters*, the non-enacted Draft Youth Justice Bill 2005 and the most recent proposals for youth justice – in Chapter 9.

C H A P T E R S U M M A R Y

In this chapter the political context and debates that led to the restructuring of the youth justice system over the last ten years have been discussed. We examined the rationale expressed by the Labour Government to justify sweeping reforms of the system and noted some academic commentary relating to these changes. We have analysed the content of the two main sources of contemporary youth justice practice, namely the Crime and Disorder Act 1998 and the Youth Justice and Criminal Evidence Act 1999 and examined the current sentencing options and ancillary orders available. We have further analysed other legislative enactments relating to anti-social behaviour and children and young people passed since the major statutes and looked at their impact upon the youth justice system. We have noted the growth in the range and scope of sentencing options for young people who have committed offences and the burgeoning of other (mainly civil law) measures introduced to prevent and deter disorderly activities that do not amount to crimes.

FURTHER READING



Audit Commission (2004) *Youth justice 2004: A review of the reformed youth justice system*.

London: TSO.

This report comments on the state of the current youth justice system and cites possible reforms.

Bateman, T and Pitts, J (eds) *The RHP companion to youth justice*. Lyme Regis: Russell House Publishing.

An up-to-date edited collection that provides papers discussing most areas of contemporary youth justice practice.

Fionda, J (2005) *Devils and angels: Youth policy and crime*. Oxford: Hart.

A comprehensive outline and excellent critique of youth justice policy and practice.

Chapter 5

Working within a Youth Offending Team and in the youth justice system

Paul Dugmore

A C H I E V I N G A S O C I A L W O R K D E G R E E

This chapter will help you begin to meet the following National Occupational Standards:

Key Role 2: Plan, carry out, review and evaluate social work practice, with individuals, families, carers, groups, communities and other professionals

- Prepare, produce, implement and evaluate plans with individuals, families, carers, groups, communities and professional colleagues.

Key Role 4: Manage risk to individuals, families, carers, groups, communities, self and colleagues

- Assess, minimise and manage risk to self and colleagues.

Key Role 5: Manage and be accountable, with supervision and support, for your own social work practice within your organisation

- Manage, present and share records and reports.
- Work within multi-disciplinary and multi-organisational teams, networks and systems.

Key Role 6: Demonstrate professional competence in social work practice

- Work within agreed standards of social work practice and ensure own professional development.
- Manage complex ethical issues, dilemmas and conflicts.
- Contribute to the promotion of best social work practice.

It will also introduce you to the following academic standards as set out in the social work subject benchmark statement:

3.1.1 Social work services and service users

- The relationship between agency policies, legal requirements and professional boundaries in shaping the nature of services provided in inter-disciplinary contexts and the issues associated with working across professional boundaries and within different disciplinary groups.

3.1.2 The service delivery context

- community-based, day-care, residential and other services and the organisational systems inherent within these.
- The significance of interrelationships with other social services, especially education, housing, health, income maintenance and criminal justice.

3.1.5 The nature of social work practice

- The factors and processes that facilitate effective inter-disciplinary, inter-professional and inter-agency collaboration and partnership.

3.2.4 Skills in working with others

- Act co-operatively with others, liaising and negotiating across differences such as organisational and professional boundaries and differences of identity or language.

3.2.5 Personal and professional development

- Identify and keep under review their own personal and professional boundaries.
- Handle inter-personal and intra-personal conflict constructively.

Introduction

In this chapter we consider the role of the social worker in the context of the multi-agency Youth Offending Team and the wider youth justice system. We look at how the system has changed since the Labour government came to power in 1997 and the 1998 Crime and Disorder Act was passed. Working within a YOT means working with a range of other professionals from diverse disciplines and we will also be considering their roles. The chapter provides an overview of the youth justice process so you can see the other agencies involved in dealing with young people who offend or who are at risk of committing crime and the stages a young person may go through before arriving at the door of the YOT. The chapter should provide you with a real sense of the inter-agency and inter-professional contexts involved in youth justice.

Introduction to YOTs

As identified in Pickford (2000), and in Chapter 2, prior to 1998 and the passing of the Crime and Disorder Act, the remit of working with young people involved in offending was held by juvenile or youth justice teams which were part of social services departments. These teams were staffed by a combination of social workers and unqualified workers, perhaps from a social care or youth work background. The role of the teams was to work with young people involved with the police or courts, having been cautioned or charged with a criminal offence. As is the case now with YOTs, youth justice teams prepared pre-sentence reports for courts and supervised children and young people subject to community sentences such as supervision orders and those subject to detention in a young offender institution. Juvenile justice teams developed following the intermediate treatment initiative implemented in the 1980's as an alternative to custody, where:

Progressive policy makers and radical practitioners with young people in trouble insisted that whenever and wherever possible, we should 'leave the kids alone', maintaining that the most effective intervention was 'radical non-intervention'. (Pitts, 2003, p8)

This approach contrasts with the evidenced-based interventionist and correctionist approach that has been central to the Labour reforms of the youth justice system (Bottoms and Dignan, 2004).

Following an inspection by the Audit Commission which led to the publication of *Misspent youth* in 1996, it was perceived that the youth justice system was failing to intervene effectively with young offenders and that the same young offenders were being repeatedly processed by the courts. The report concluded:

The current system for dealing with youth crime is inefficient and expensive, while little is done to deal effectively with juvenile nuisance. The present arrangements are failing the young people who are not being guided away from offending to constructive activities. They are also failing victims. (Audit Commission, 1996, p96)

Following this damning indictment on the youth justice system the incoming Labour government set about a radical overhaul of the entire system, proposing to replace youth

justice teams with multi-agency YOTs. A number of pilots – nine – were established to test out some of the proposed reforms and these were evaluated. This was so that evidence-based practice could be seen to be at the heart of these reforms; however, criticism arose following the full roll-out of the legislation before the evaluations were complete (Holdaway et al., 2001 cited in Bottoms and Dignan, 2004).

Multi-agency working

Working in a YOT involves being a member of possibly the most diverse and wide-ranging multi-agency team within social care. Prior to 1998, there was evidence of some multi-disciplinary working in existence, for instance, community mental health teams, which were very much a joint health and social services venture, and also social workers placed in other health areas such as hospitals, health centres and in substance misuse teams. In children's settings, multi-disciplinary working was evident in relation to child protection, with Area Child Protection Committees (now Local Safeguarding Children Boards) established with representatives from all relevant agencies collaborating to ensure children are protected. However, the Crime and Disorder Act legislated for the first time that in the field of youth justice, in each local authority area the local authority social services and education departments must work with the police, probation service and health authority to establish and fund a new multi-agency Youth Offending Team. The Act went further, stipulating in section 39(5) that each YOT must have at least one of the following:

- A social worker.
- A police officer.
- A probation officer.
- A nominated person from the education department.
- A nominated person from the health authority.

The Act also stated that while this was a minimum requirement, other staff could also be included, from the statutory or voluntary sector. Section 37 of the act states: 'It shall be the principle aim of the youth justice system to prevent offending by children and young persons.'

As well as this primary aim being laid down in statute, the Act also sets out that each local authority, in consultation with its partner agencies, has a statutory duty to formulate, publish and implement an annual youth justice plan, to be submitted to the YJB, outlining how the YOT is to be composed and resourced, its functions, how it will operate and how youth justice services are to be provided and funded. Section 38(4) defines the services to be provided as:

- Appropriate adults.
- Assessment of young people for rehabilitation programmes after reprimand/final warning.
- Support for those remanded in custody or bailed.
- Placement in local authority accommodation when remanded.
- Court Reports and assessments.

- Allocation of referral orders.
- Supervision of those sentenced to community orders.
- Supervision of those sentenced to custody.

So multi-agency YOTs should co-ordinate the provision of these services with YOT staff drawn from a broad range of professions associated with the care of young people in order to tackle youth crime. Latterly, an additional requirement has been set for YOTs to provide preventative services to target those young people who may be deemed to be at risk of offending.

Youth Justice Board

The Crime and Disorder Act also introduced the Youth Justice Board, a new body to oversee the operation and monitoring of the youth justice system, specifically YOTs and the secure estate. The YJB, described by some as a quango (Smith, 2003b), has considerable influence (Pitts, 2001). Section 41 of the Act prescribed the functions of the board as being:

- To monitor the operation of the youth justice system and the provision of youth justice services.
- Advising the Secretary of State on the operation of the system especially with regard to how the statutory aim could be achieved.
- Monitoring the extent to which that aim is being achieved and any set standards met.
- Obtaining information from relevant authorities.
- Publishing information.
- Promoting good practice.
- Commissioning research into good practice.
- Awarding grants to develop good practice.

At its inception, the YJB produced the *National standards for youth justice services* in 2000, updated in 2004 (YJB, 2004b), which give guidance on the expected quality and level of service required of YOTs and the secure estate, as well as the Asset assessment framework (outlined in Chapter 6). It has also produced the *Key elements of effective practice*, guides for YOT practitioners on a range of practice areas and a quality assurance process. The YJB also has responsibility for commissioning secure beds from the secure estate.

ACTIVITY 5.1

Consider the key agencies within the youth justice system: police, YOTs, Crown Prosecution Service, courts, and prison service. Identify the key functions of each of these.

How difficult you found this activity will have depended on your prior knowledge of the youth or criminal justice system. You will see from the discussion below that each agency has quite distinct roles but that all should work alongside each other to ensure the system works effectively.

The youth justice process

The youth justice system is comprises a number of agencies each performing a particular role relating to young offenders. Figure 5.1 depicts the large number of organisations involved and how these interrelate to each other.

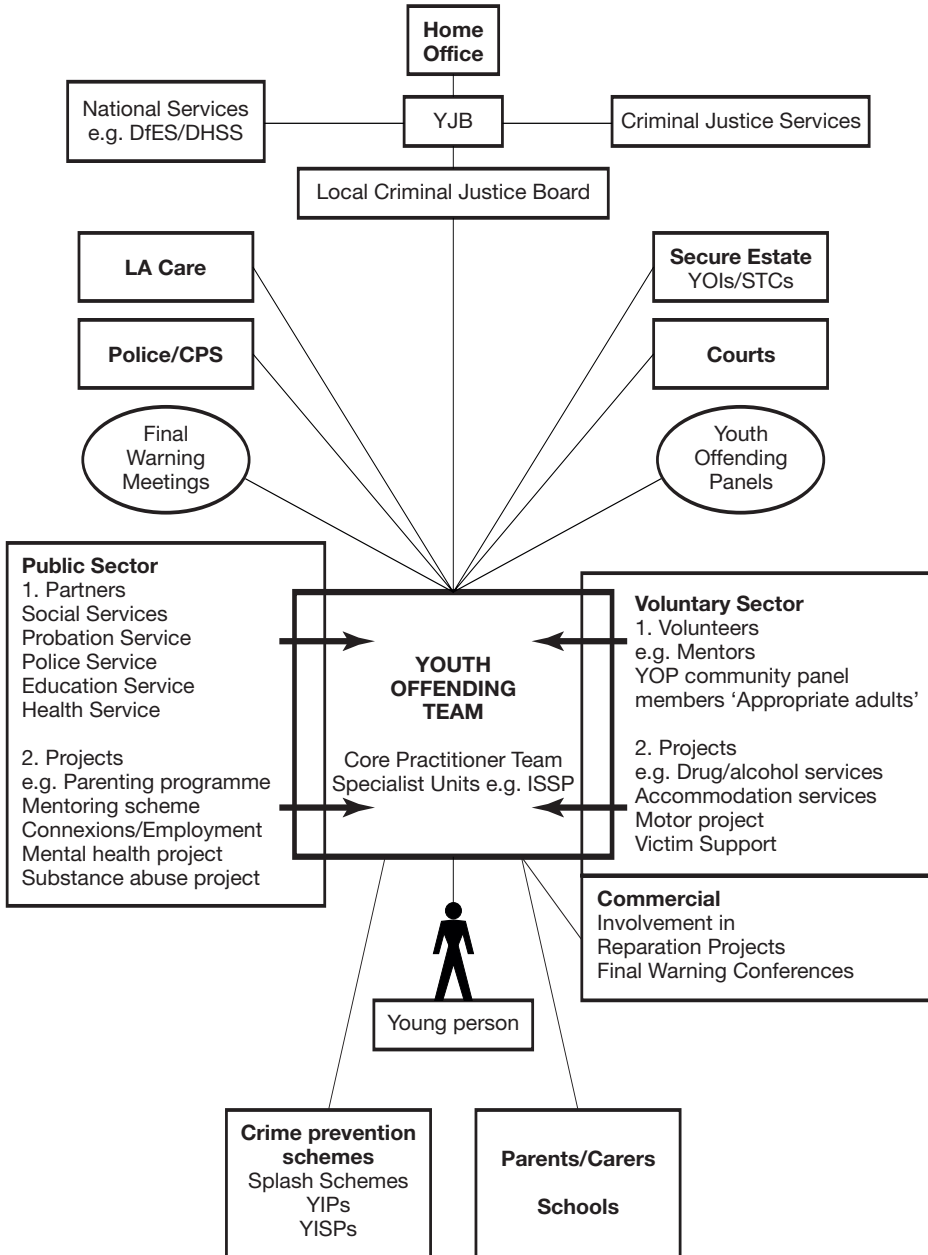


Figure 5.1 Elements in a local youth justice system (from Appleton and Burnett, 2004, p9)

The police

The police act as the gateway to the youth and criminal justice systems, as if they did not detect crime and arrest suspects there would be no offenders. The role of the police has changed significantly over time and is now much more complicated than it was historically (Reiner, 2000; Uglow, 2002). However, the main functions of the police are to prevent, detect and investigate crime. The work of the police in relation to the investigation of crimes and the detention of suspects is guided by the Police and Criminal Evidence Act 1984 and the Code of Practice accompanying the Act. If a young person is arrested on suspicion of committing, having committed or being about to commit an offence, they will be taken to a local police station where the police will start their investigation into the alleged offence. Once a person has been interviewed regarding an offence, hopefully in the presence of a solicitor and certainly an appropriate adult if the suspect is under 17, the police have a number of options open to them. These are:

- Take no further action.
- Bail the young person to return on another date.
- Issue the young person with a reprimand.
- Refer the young person to the YOT for a final warning assessment. (They can also issue a final warning immediately, although this is bad practice.)
- Charge the young person.

Appropriate adults

YOTs have to ensure that an appropriate adult service is provided in the local area. This is often run by specially recruited and trained volunteers, who offer 24-hour provision as young people may be arrested at any time. The role of the appropriate adult is to ensure that the young person's welfare needs are met during their detention in police custody and to facilitate communication between the young person and the police during the interview. The appropriate adult should be satisfied that the interview is being undertaken in accordance with the Police and Criminal Evidence Act 1984 and the Code of Practice. For more information on the role of the appropriate adult, there is a useful chapter in the *RHP companion to youth justice* (Bateman and Pitts, 2005).

Police Bail

Young people are usually allowed home on police bail while they wait for an appearance before the Youth Court. The police may impose conditions on bail, e.g. to sleep at their home address, to report daily to a police station. The police may however, refuse bail where they believe that the person may not appear in court or may commit further offences while on bail, or for their own protection. If an offence is very serious and the police have decided to prosecute, the person may be detained until they can be brought to the earliest available court, usually the same day or the following morning. Where it is a young person, if they have to be held overnight, the 'detention' should be transferred to local authority accommodation such as a children's home, foster placement or secure unit.

Reprimands and final warnings

The Crime and Disorder Act 1998 replaced the cautioning of young offenders (it still exists with adults) with a new system of reprimands and final warnings. Prior to the act, a young person could be cautioned indefinitely following an approach that saw young people being diverted from the criminal justice system as a way of preventing further offending based on a minimal intervention philosophy. Pitts comments on the Thatcherist approach to youth justice that consisted of 'Cost-cutting imperatives and its commitment to "small government", articulated with the desire of the youth justice lobby to limit the state's intervention in the lives of children and young people in trouble' (Pitts, 2003, p7). However, as young people were being repeatedly cautioned, concern was developing that its impact was lessened and the Audit Commission criticised its use. *Misspent youth* (1996) found that cautioning was 'reasonably effective on up to three occasions, but subsequent use was not only ineffective but brought the system into disrepute' (Marlow, 2005, p68). The final warning scheme guidance (Home Office/Youth Justice Board, 2002) states that:

The final warning scheme aims to divert children and young people from their offending behaviour before they enter the court system. The scheme was designed to do this by:

- *ending repeat cautioning and providing a progressive and effective response to offending behaviour;*
- *providing appropriate and effective interventions to prevent re-offending; and*
- *ensuring that young people who do re-offend after being warned are dealt with quickly and effectively by the courts. (2002, p5)*

Since June 2000, where there is sufficient evidence for a realistic prospect of conviction should the young person be prosecuted, a reprimand or final warning may be given, providing the person admits to the offence and consents to the reprimand or warning, and it is not in the public interest for a prosecution. The guidance on the final warning scheme states that a reprimand can only be given if a young person has not been reprimanded or finally warned before. Thus reprimands are designed for first-time offenders and the YOT must be notified when a young person is reprimanded. A final warning can only be given when a young person has re-offended having already received a reprimand. However, if the offence is serious enough to warrant it, a final warning can be given for a first offence. At this stage, the YOT must be notified so that the young person can be contacted, and assessed, using Asset (see Chapter 6) and a programme of intervention planned and offered. Compliance with this is not mandatory but if a young person fails to comply, this may be mentioned in subsequent hearings if they re-offend and are prosecuted and the police are informed of the non-compliance. If a young person offends after previously receiving a final warning, they must be charged unless the warning was given two years before the new offence was committed. A study undertaken in 2000 found that many of the young people and YOT workers saw the final warning system as 'arbitrary, unfair and disproportionate' with the way young offenders are dealt with contrasting very unfavourably with that for adults (Evans and Pugh, cited in Ball, 2004).

ACTIVITY 5.2

Sarah, aged 14, is arrested for stealing from a shop. She is stopped outside the shop by a store detective who calls the police. She is arrested and taken to the police station. She has not been arrested before and is very anxious. Outline the process that will follow, through to what action the police can take.

You will have considered the fact that as a child under the age of 17, Sarah would need to have an appropriate adult present and therefore the custody officer should have made every effort to contact her parents or carers and inform them of the arrest. If one of her parents/carers is able to attend the police station and act as the appropriate adult, this is preferable; if not, an appropriate adult will have to be provided by the YOT. You may have identified that the appropriate adult will be able to see Sarah when they arrive at the police station and check that she is all right and understands what is going on. She will probably be worried and anxious about being in a police station, especially if she has not been arrested before. The parent or carer may also be anxious. The custody officer should explain to Sarah her rights, in the presence of her appropriate adult; this will include the fact that she is entitled to free legal advice, which should always be obtained, and that she can have access to a copy of the Code of Practice. Once the solicitor arrives, she or he will speak to the police about why Sarah has been arrested and what the evidence against her is. The solicitor will also want to meet with Sarah and talk to her about her version of events. This should be a confidential interview between the two of them. Providing Sarah is feeling well enough, the police interview will take place with the appropriate adult present; Sarah will be questioned by the police under the advice of her solicitor.

If the police feel they have enough evidence to charge Sarah, the interview should stop and they should consider what action they are going to take. You may have thought about the different options open to the police; if, for instance, there is not enough evidence they may decide to take no further action. If they want to continue the investigation they could bail her to come back to the police station at another time. If Sarah admitted the offence the police could charge her and give her a date to attend court. However, as this is the first time that she has come to the attention of the police and she has admitted the theft, she could be issued with a reprimand or final warning. Either way, the YOT must be informed and they may offer some intervention to Sarah and her family.

Crown Prosecution Service (CPS)

The CPS is an integral part of the youth justice system, working alongside the police in making decisions about whether or not to charge a suspect. If the police are unsure whether to prosecute a young person, the CPS will advise on the appropriate action to take. In reaching a decision, the prosecutor (a qualified lawyer) will consider the case in relation to the Full Code Test, which looks at the evidence and the public interest. The Code for Crown Prosecutors, issued under the Prosecution of Offenders Act 1985 and available at www.cps.gov.uk/publications/docs/code2004english.pdf details the evidential and public interest tests that must be applied to each case in order to determine whether or not a prosecution should be sought. In order to continue with a prosecution brought by the police, the prosecutor must be satisfied that there is sufficient admissible evidence

to secure a conviction, and that it will be in the public interest. The prosecutor has to consider issues such as the defence case, reliability of witnesses and credibility of the evidence, as well as the likely outcome of a conviction, the vulnerability of the victim and the defendant's previous offending. If a decision to prosecute is made, the young person will be given a date to appear in court or be detained by the police and taken to court the following day. The CPS is also responsible for ensuring you receive any documentation required in order for you to complete a pre-sentence report. This usually consists of evidence papers, the transcript of the police interview with the young person, witness statements, details of previous convictions, etc.

Court

Since the passing of the Children Act 1989, young people charged with criminal offences have been dealt with by the Juvenile Court, renamed the Youth Court by the Criminal Justice Act 1991. If they are charged with an adult, they will appear in the magistrates' court, or if charged with a grave offence the case has to be committed to the Crown Court.

The Youth Court has responsibility for dealing with all young people who are charged. The Youth Court setting is more informal and is presided over usually by a panel of two or three lay magistrates, volunteers who are trained in youth matters, or sometimes by a district judge who is legally qualified and sits alone. The Youth Court deals with:

- Issues of bail and remand for young people whose cases are progressing through the court system.
- Deciding a defendant's innocence or guilt following a trial when a young person pleads not guilty.
- The committal of serious cases to the Crown Court where a custodial sentence of more than two years may be appropriate (as the Youth Court does not have the power to sentence beyond this time).
- Sentencing young people pleading guilty to, or convicted of, an offence. The Youth Court also deals with breaches of sentences when young people do not comply with the requirements of a court order. (See chapter 4 for the sentencing framework for young people.)

If a court is unable to deal with the case straight away it has to consider what should happen to the person in the meantime. Arrangements should allow children and young people to remain living 'at home' wherever possible but it might be necessary for local authority accommodation or secure facilities to be used.

Remands to local authority accommodation

Section 23 of the Children and Young Persons Act (CYPA) 1969 gives courts the power to remand children and young people to local authority accommodation where they are charged with an offence and not released on bail. Subsection (7) of Section 23 allows the court to impose any conditions that can be imposed under Section 3(6) of the Bail Act 1976 on a defendant who has been granted bail. Some of the more common conditions are:

- To reside at a specific address.
- To observe a curfew between specified hours.

- A curfew may be enforced by electronic monitoring (a tag fitted to the leg).
- Not to enter a specific area.
- Not to associate with prosecution witnesses or pervert the course of justice.
- Not to contact other young people jointly accused.
- To comply with a YOT bail supervision and support programme which may involve numerous sessions a week.
- To report to a police station.

Remand to local authority accommodation confers 'looked after' status on a young person and requires the appropriate social services department to provide accommodation for the young person. Local authority accommodation is defined by the Children Act 1989, Section 22 and may include:

- residential children's homes;
- remand foster placements;
- placement with members of the defendant's family.

The local authority has considerable discretion as to the choice of accommodation, although the court may stipulate that the young person is not placed with a named individual or at a named address. Whether a young person who is subject to a remand into local authority accommodation is placed with parents or other family or not, they are also 'looked after' children and should therefore be subject to Children Act requirements.

The YOT and Youth Court panel within each authority are required to meet at least twice a year to discuss issues regarding young people at court. This can also be an opportunity for the YOT to provide training or briefings on particular aspects of practice. It is important for you to attend these where possible, as among other things magistrates will get to know you and as in all areas of work, building professional relationships across the whole youth justice system can only seek to enhance the quality and effectiveness of your practice.

Judge and jury

If a young person has committed a serious offence such as murder, rape or grievous bodily harm, the Youth Court may be of the view that the likely sentence the young person should receive will be more than the two years maximum period of imprisonment available to it. In such a situation, the case will be committed to the Crown Court for a plea and directions hearing. If the young person enters a not guilty plea, the matter will be adjourned (put back) for a trial with a judge and jury. Here, the jury, 12 randomly selected men and women, will sit through the trial, hear the evidence and have to reach a verdict, on the direction of the judge who will advise them on matters of law. If the jury finds the young person guilty of the charges, the judge could sentence there and then if it is a very serious offence such as murder. More than likely, the judge will request a pre-sentence report from the YOT which will need to be completed by the date the case is adjourned to. The judge will then sentence on the next occasion.

Appearing in court can be a very traumatic event for young people, their families and social workers, and the Crown Court is particularly intimidating with its formalities, dress code and size. Johns (2005) provides some useful advice on appearing in court and strategies to manage the anxieties it may present for you: these are, in essence, preparation, practice, prediction and professionalism. (See Further Reading at the end of the chapter.) The youth justice system in this country has been criticised for its formal court system which does not facilitate active participation from young people and their parents/carers, and magistrates are now required to undergo training in communication skills. While some may be effective at engaging young people in the court setting, there is still huge room for improvement. The government, in responding to the European Court's ruling in the case of Thompson and Venables (V v UK and T v UK (2000) 30 EHRR 121), in the White Paper *Justice for all* (Home Office, 2002) proposed changes to the way most serious trials are heard. It suggested that the current Crown Court be replaced by cases being heard by a judge and two youth magistrates in a Youth Court. However, no such changes have occurred or seem to be planned. The Thompson and Venables case did, however, bring about some changes to the way children are tried. As Bandalli (2005) states:

Article 6 of the European Convention on Human Rights, guarantees the right to a fair trial and childhood has been recognised as having an impact on fairness. As a result, when a child or young person is charged with a criminal offence, they should be dealt with in a manner that takes into account age, immaturity and understanding. There should be less formality and attempts should be made to ensure the child understands what is happening and to make proceedings more child-friendly. (2005, p42)

Given the formality of the court environment, it is useful, therefore, if you can visit a range of courts during your training so that you gain some experience in how they operate. Remember that the Youth Court is closed to the public so you will be allowed in only if you are undertaking a practice learning placement within a YOT. The magistrates' and Crown Courts are not closed and it is possible to sit in the public gallery and observe proceedings.

Defence solicitors

As mentioned earlier, when a young person is arrested by the police, they are entitled to free legal advice while at the police station. If the young person is charged, this legal representation will usually be available when they appear in court. The solicitor will advise the young person in relation to the process, the evidence against them and their plea as well as issues of bail and sentence. The solicitor (or barrister if instructed by a solicitor) will also advocate on behalf of the young person in court in relation to bail and sentence. It is important for you to liaise with the solicitor of a young person with whom you are working, as you may be required to address the court on your assessment in relation to whether the young person should be remanded into secure provision or subject to bail supervision by the YOT. The solicitor will need to see a copy of your pre-sentence report prior to the hearing so that he or she is aware of what sentence you are proposing. If you are encountering difficulty in obtaining CPS documentation, the solicitor may be able to forward you a copy.

YOTs

As discussed previously, multi-agency YOTs are designed to be a joined-up approach to addressing youth crime. A team comprising a number of professional disciplines is a complex operation and there needs to be a clear understanding of and respect for each other's role in order for different practitioners to be able to work together effectively. Most of the key agencies making up a YOT have very different philosophies, cultures, training and objectives, so while able to bring a wide-ranging approach to the issue of youth crime, the potential for conflict is quite significant. Bailey and Williams (2000, cited in Burnett and Appleton, 2004) found evidence of 'turf wars' in their research into YOTs whereas Burnett and Appleton (2004) observed cordial relations from the start and a very open attitude to the prospect of learning from each other. Having a range of professional identities within one team can be threatening as duties are shared across other disciplines. It is important therefore to recognise the value of each discipline's contribution to the multi-disciplinary approach and the values and knowledge that other professionals bring. As a social worker it is vital that you develop the skills and ability to practise within a range of professional networks to develop and maintain effective working relationships for the benefit of the young people with whom you are working.

The guidance on the setting up of YOTs suggested how each of the five key professionals may be deployed and what their areas of responsibility might be.

Social worker

Social workers will be involved in carrying out most of the assessments on young people for whom pre-sentence reports have been requested. (See Chapter 6 for more information on assessment and report writing.) They will also be required to provide a service to the local Youth Court as well as attending the Crown Court when young people are appearing there for sentence. Social workers will usually have a caseload of young people who have been sentenced to a range of court orders, some of which will be served in the community, others in secure settings. YOTs may be configured so that social workers are in a team that only deals with specific types of cases, for instance custodial sentences. Working with young people on court orders involves planning and reviewing cases, intervening to prevent offending behaviour and working with families (see Chapter 7), liaising with others such as victims and referral order panel members (see Chapter 8). Thus, a typical day for a YOT social worker might involve interviewing a young person as part of an assessment, writing up the assessment and perhaps a report for the court, seeing young people who are being supervised on court orders, such as a supervision order, and attending a Youth Offender Panel with a young person. Core social work tasks such as interviewing and assessing, building relationships with people, empowering and supporting young people, advocating on behalf of young people and challenging discrimination and injustice will all feature daily in your practice.

Police officer

The issuing of final warnings, the assessment of young people subject to final warnings and the delivery of the subsequent intervention programme is often undertaken by the police officer(s) in the YOT. However, social workers may also be involved in the latter two stages. If Sarah (Activity 5.2) had received a final warning following her admission of the

theft, she might have been assessed by a YOT police officer who would then have worked with her on the programme of intervention. YOT police officers are also involved in working with victims, in terms of obtaining victim impact statements about an offence so that the young person knows what effects their offending has had on the victim; supporting the victim in meeting the young person who carried out the offence and maintaining links with the local police to support crime reduction initiatives. The police officer may also link with the police and probation services relating to the Multi-Agency Public Protection Arrangements (MAPPA) in relation to high-risk offenders (see Chapter 6).

Education officer

The education officer in a YOT may be a teacher, perhaps with a background in special needs, an educational psychologist or an education welfare officer. The areas the education officer in the YOT may be involved in are assessing the educational needs of young people, as part of Asset, to inform the courts or during the course of a court-ordered programme, including DTOs. Some of the work will involve getting excluded young people or those without any education provision, such as asylum-seekers, into some educational provision and ensuring their literacy and numeracy needs are being met. YOT education officers may also be involved in helping young people sustain their placements and regular attendance there. Had there been any issues around Sarah's education, these would have been identified in the assessment of her and she might have been referred to the education officer so that these could be addressed. Education officers may also be involved in working with young people around training and employment issues, although these days YOTs often have Connexions workers or careers advisers based in the team or attached to the team to carry out this function.

Health officer

The health officer may be from a variety of backgrounds including a school nurse, a community mental health nurse, a dual diagnosis (mental health and substance misuse) specialist or a psychologist. The kind of work they may be involved in could be assessing and screening a young person's physical and mental health needs, again as part of Asset to inform a court report or as part of a fuller assessment and referral to a health organisation.

Probation officer

Given their professional training and experience, it is likely that YOT probation officers will undertake very similar duties to social workers, such as undertaking assessments, attending court and supervising young people on court orders. However, it may be that probation officers work with the older young people, aged 16 and 17, and some 18 and 19 year olds serving DTOs. If young people on adult community sentences turn 18 during the court order and there is still a significant period of time to be served on the order, the case will need to be transferred to the probation service and the YOT probation officer is well placed to manage this process as they should still be linked in with the local probation team. Probation officers may also have substantial experience of running group work programmes in the probation service and this may be another aspect of their work in a YOT. Probation officers will have been using assessment tools within the probation service and should also be experienced in managing risk and attending the MAPPA meetings, for instance (see Chapter 6).

Other professionals

In addition to these roles which are mandatory within each YOT, there may be other professionals based in the team or attached to it. These could include housing workers or substance misuse workers, for whom funding is ringfenced in order to ensure their presence in a YOT. Similarly, YOTs may also have separate prevention and early intervention teams to intervene with young people at risk of offending such as youth inclusion and support panels and youth inclusion programmes. For more information on these refer to the YJB website. All of these specialist roles/services might have been available to Sarah had they been identified as an issue in relation to her offending.

ACTIVITY 5.3

Consider the case study below and identify the role of the YOT social worker.

Jermaine, aged 15, is arrested by the police having committed a serious offence of robbery while on bail for driving-related offences. He is interviewed by the police and on the advice of his solicitor makes no comment to any of the questions the police ask. He is given bail by the police so that they can investigate the offence further, with conditions that he lives at his parents' house, does not contact any witnesses, does not enter a certain area of the town and does not go out of the house between 7 p.m and 7 a.m. He is bailed to return four weeks later when the matter will either be dropped or he will be charged. When Jermaine returns to the police station, the police decide to charge him as they have examined CCTV footage showing him committing the robbery. Jermaine is charged and detained overnight to be taken to court the next day.

The CPS lawyer outlines the case against Jermaine and informs the court that the victim has been seriously affected by the robbery, physically in terms of bruising to his head and arms, and emotionally, scared to leave the house unless in the company of his parents. The lawyer also informs the court that at the time of the alleged offence Jermaine was on bail for driving offences for which he is waiting to be tried. The magistrates hearing the case ask you, the YOT officer present in court, to assess Jermaine's circumstances and to give them more information on whether they should be granting him bail or not.

What issues would you want to address in the 15 minutes the court has adjourned the case for?

You will clearly want to interview the young person in the cells to gather some basic information such as his living arrangements and education situation. Hopefully his parents/carers will also be at court so you will be able to speak to them. If not, did you think of calling them and asking them to come to court? It will be important to ascertain and assess the level of support and supervision offered to Jermaine by his family. It may be wise to ask about other extended family members who may be able to accommodate him for the duration of the court case, particularly if the victim lives near to Jermaine. The court will be concerned in making its decision that any risk of re-offending is reduced or prevented, the victim and any other witnesses are protected as well as society generally, and that Jermaine returns to court for future hearings. You will need to consider any measures that will help to secure these outcomes and a relative some distance away may prove a very valuable alternative.

How Jermaine spends his time will be an important factor to consider; if he is in school, what is his attendance like? The absence of a school place or problematic attendance means that additional supervision of Jermaine in the community will be necessary if he is to be given bail. If he cannot be placed at home safely either because parental supervision is poor or not possible, for instance due to his parents' work commitments or younger siblings, and there is no other family member that can accommodate him, the court may consider remanding Jermaine into local authority accommodation with a condition that he is not placed at home. Your response to the court must be to propose a programme of bail supervision that the court will find an adequate alternative to custody. This may include a curfew monitored electronically, bail supervision offered by the YOT or an intensive supervision and surveillance programme (ISSP), subject to resource availability (see Chapter 4 for more information on ISSP).

The secure estate

Your contact with the secure estate will occur when you work with young people who are either remanded or sentenced to a period in custody or secure accommodation. There are three types of secure settings in youth justice: local authority secure children's homes (LASCH), privately run secure training centres (STC) and prison service young offender institutions (YOI). All three are quite different and young people can end up in any, remanded or sentenced, subject to their age and gender.

For those on remand:

- 10–12 year olds cannot be remanded to secure accommodation/custody, so go to local authority accommodation.
- 12–14 year old boys and 12–16 year old girls cannot be remanded to custody so go to local authority accommodation which can be secure if certain conditions are met.
- 15–16 year old boys can be remanded into local authority secure accommodation or custody but will usually go to custody unless deemed vulnerable.
- 17 year olds are treated as adults and if refused bail go to YOIs.

For sentenced young people, the YJB placements strategy, as cited in Bateman (2005), states that:

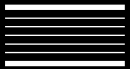
- Children under 12 years of age will be placed in a LASCH.
- Children aged 12–14 years of age must be placed in a LASCH or STC.
- 15–16 year old girls should be given priority for places in non-prison service establishments.
- 17 year old girls will be allocated to a LASCH if places are available.
- 15–17 year old boys will usually be placed in a YOI although vulnerable 15–16 year old males should be considered for a placement outside of the prison service where places are available.

If a young person is remanded into custody, the YOT should be present in court, although if it is by an adult court, this is not always the case. However, the YOT should at least be notified. National Standards require that remanded young people are seen within five working days and a remand plan be drawn up that must then be reviewed within timescales. Once a young person receives a custodial sentence, a post-court report needs to be completed that accompanies the young person to the secure establishment, and any concerns about their welfare need to be clearly identified on this. Again, sentenced young people must be seen in custody within five working days so that a sentence plan can be drawn up that outlines what they will be doing while serving the custodial part of the sentence. The young person and parents/carers should actively contribute to this process and the plan has to be reviewed regularly. In all cases, a key worker will be allocated to the young person in secure settings and it is important that you communicate regularly with this worker and share information accordingly. Planning for resettlement should ensure a seamless response between custody and community. Research (Goldson, 2002) identifies the vulnerability of children in custody and the lack of communication between staff in the secure estate and in the community. It is therefore crucial that you ensure your assessments and any other relevant information are always forwarded to the relevant institution and that visiting young people in custody and attending planning meetings is prioritised.

C H A P T E R S U M M A R Y

This chapter has looked at the complex system that operates to deal with the detection, prosecution, sentencing and rehabilitation of young people committing crimes. Being a social worker in a YOT means being able to work closely with a range of other professionals based in the same team as you, but having also to work with other agencies such as the courts, lawyers and the prison service. We have identified the functions of some of these agencies and you have considered these in relation to case studies. One thing that you have hopefully realised is that in order to be an effective social worker within the field of youth justice, you need to be very skilled at multi-agency and inter-professional working and the greater your understanding of the complex system, the better your practice will be.

FURTHER READING



Bateman, T and Pitts, J (2005) *The RHP companion to youth justice*. Lyme Regis: Russell House Publishing.

A very readable and comprehensive overview of youth justice with contributions from a range of academics and practitioners in the field.

Burnett, R and Appleton, C (2004) *Joined-up justice: Tackling youth crime in partnership*. Lyme Regis: Russell House Publishing.

This book identifies some of the challenges faced by YOT practitioners and the impact of the recent reforms based on research into a YOT.

Johns, R (2005) *Using the law in social work*. Exeter: Learning Matters.

This text offers some useful advice for students on appearing in court.

WEBSITES

www.cps.gov.uk

This website contains the Code for Crown Prosecutors which gives more detail about the evidential and public interest tests that have to be met if a prosecution is to be considered.

www.dca.gov.uk

This website provides information about the legal system, the courts and judiciary.

www.homeoffice.gov.uk

The Home Office website contains a number of relevant publications on all aspects of crime.

www.youth-justice-board.gov.uk

This website provides information on all aspects of YOTs, the secure estate, sentencing and contains many documents that can be downloaded.

Chapter 6

Assessing young people

Paul Dugmore

A C H I E V I N G A S O C I A L W O R K D E G R E E

This chapter will help you begin to meet the following National Occupational Standards:

Key Role 1: Prepare for, and work with individuals, families, carers, groups and communities to assess their needs and circumstances

- Assess needs and options to recommend a course of action.

Key Role 2: Plan, carry out, review and evaluate social work practice, with individuals, families, carers, groups, communities and other professionals

- Prepare, produce, implement and evaluate plans with individuals, families, carers, groups, communities and professional colleagues.

Key Role 4: Manage risk to individuals, families, carers, groups, communities, self and colleagues

- Assess and manage risks to individuals, families, carers, groups and communities.
- Assess, minimise and manage risk to self and colleagues.

Key Role 5: Manage and be accountable, with supervision and support, for your own social work practice within your organisation

- Manage, present and share records and reports.

Key Role 6: Demonstrate professional competence in social work practice

- Research, analyse, evaluate, and use current knowledge of best social work practice.
- Work within agreed standards of social work practice and ensure own professional development.

It will also introduce you to the following academic standards as set out in the social work subject benchmark statement:

3.1.4 Social work theory

Models and methods of assessment, including factors underpinning the selection and testing of relevant information, the nature of professional judgement and the processes of risk assessment.

3.1.5 The nature of social work practice

The place of theoretical perspectives and evidence from international research in assessment and decision-making processes in social work practice.

3.2.2 Problem-solving skills

- Gather information from a wide range of sources and by a variety of methods, for a range of purposes.
- Take into account differences of viewpoint in gathering information and assess the reliability and relevance of the information gathered.
- Assess human situations, taking into account a variety of factors.
- Analyse information gathered, weighing competing evidence and modifying own viewpoint in light of new information, then relate this information to a particular task, situation or problem.
- Synthesise information and lines of reasoning and sustain detailed argument at length and over time.
- Analyse and take account of the impact of inequality and discrimination in work with people in particular contexts and problem situations.

3.2.3 Communication skills

- Communicate effectively across potential barriers resulting from differences (for example, in culture, language and age).

Introduction

In all areas of social work, assessment is often considered to be the initial part of social work involvement, the gateway to service provision. This is particularly apparent in youth justice with the National Standards stating that 'All children and young people entering the youth justice system should benefit from a structured needs assessment' (YJB, 2004b, p27).

Given the clear importance of assessment within youth justice, this chapter looks at the purpose of assessment, and provides a brief overview of different types of assessments. A more detailed consideration of assessment within social work can be found in Parker and Bradley (2003). The Asset assessment tool used by YOTs is discussed as well as the relationship between Asset and pre-sentence reports (PSRs) and risk assessments. The chapter concludes by considering the relationship between Asset and the Common Assessment Framework, introduced by the 2004 Children Act.

What is assessment?

Within a social work context, assessment is often described as an activity undertaken in order to identify a person's needs or problems so that the appropriate intervention can then be planned to meet those needs or address the problems. Social workers carry out assessments for a variety of reasons depending on the area in which they practise. It is generally an information-gathering exercise undertaken to establish what the presenting and underlying factors are in a service user's life, by working in partnership with the service user, their family or carer, and other professionals who may be involved. However, it is not only about gathering information, but should be seen as 'a holistic process that involves gaining an overview of the situation' (Thompson, 2005, p64). An assessment might be carried out as a one-off event and as such may be static, or it may be a fluid process occurring more than once, depending on the situation. In youth justice, it is likely to be more than a one-off event.

According to Middleton (1997), cited in Parker and Bradley (2003), assessment is:

The analytical process by which decisions are made. In a social welfare context it is a basis for planning what needs to be done to maintain or improve a person's situation . . . Assessment involves gathering and interpreting information in order to understand a person and their circumstances; the desirability and feasibility of change and the services and resources which are necessary to effect it. It involves making judgements based on information. (Parker and Bradley, 2003, p5)

Thus, assessment is not simply about the collation of information, it is, equally importantly, about making sense of that information.

ACTIVITY 6.1

Think about undertaking an assessment of a young person coming to the attention of the YOT.

- *What are important factors in carrying out a good assessment?*
- *Identify examples of when an assessment might be undertaken in a youth justice setting.*

You may have acknowledged that in order to ensure an assessment is effective, it is important that as the social worker you are clear about the purpose of the assessment, that is, what it is you are assessing and why. In the gathering of information, the obvious starting point is an interview with the young person. However, it may be more useful if you have obtained information from other sources, where possible, prior to the interview as this may help determine the areas for discussion. Skills required here include active listening, effective communication and observation in order to pick up on non-verbal cues, as well as the ability to clarify meaning. Adopting a strengths-based approach that sees the service user as an expert in their lives in order to be able to jointly identify what their needs or problems are is also important (Thompson, 2005, Trevithick, 2005).

Assessments should also be balanced so that as well as identifying problematic behaviour or risks, positive factors and strengths are also highlighted. You may also have revisited issues looked at in Chapter 1, locating the assessment task within a value-based framework. Being aware of your own background and value base and how these may impact on the situation that you are assessing is vital so that you are able to reflect upon your work and be as objective as possible. While assessment is about making judgements about a set of circumstances or facts based on evidence gained, it is not about making value judgements. Milner and O'Byrne (2002) provide a helpful distinction between 'making a judgement' and 'being judgemental': 'Social workers are required to face the challenge and responsibility of the former in order to be helpful; they need to avoid the prejudice, close-mindedness and blaming implicit in the latter' (Milner and O'Byrne, 2002, p170).

As a social worker, in carrying out an assessment you will be in a position of power over the young person being assessed and what outcome arises from your assessment could have a huge impact upon their receipt of services, the intervention or their loss of liberty. Bevan (1998, cited in Thompson, 2005) defines a high quality assessment as bringing together:

Information relevant to the physical, psychological, social and spiritual dimensions of the situation. Once this is gathered, the worker needs to make sense of the information by understanding the person as part of many systems – for example, family, school, friendship and the religious and cultural dimensions of their lives. For assessment to be both accurate and adequate, it is imperative to acknowledge the influential factors of race, culture, gender and disability. Importantly, the assessment needs to recognise the structural and social dimensions and the way these disparities impact on a person's coping resources (Thompson, 2005, p143).

Framework for assessment

While not specifically focusing on youth justice practice, Milner and O'Byrne (2002, p6) suggest a comprehensive framework for assessment that has five key stages and is applicable across all social work settings:

- *Preparation* – this refers to the purpose of the task and establishing what is relevant.
- *Data collection* – undertaken with an open mind and in line with core social work values of empowerment and respect.

- *Weighing the data* – identifying if there is a problem and if so how serious it is within a theoretical and evidence-based framework.
- *Analysing the data* – interpreting the data to identify the required intervention.
- *Utilising the analysis* – finalising judgements.

This model will be useful in the subsequent activities in this chapter as well as in your practice in youth justice.

Types of assessment

Milner and O'Byrne suggest that an 'exchange model' should always be adopted which views service users as experts in their own lives with assessment as a mutual process where the social worker follows what is said by the service user rather than attaching their own interpretation. The social worker focuses on the service user's internal resources and strengths to reach jointly agreed objectives. This model is in line with government guidance and is more likely to lead to a process of re-evaluation. Milner and O'Byrne (2002, p67) state that social workers could improve their assessments if they adopt principles from sound research:

- A clear statement of intent.
- Accountability of values.
- A systematic approach to data collection, looking at not only the personal but the social aspects.
- The development of multiple and testable hypotheses.
- Decisions that lead to measurable outcomes.
- Consumer feedback.

Such a model can be usefully applied to youth justice and if followed, will enhance your practice.

Assessment in youth justice

In recent years, particularly following concerns about social workers' abilities in relation to high-profile child protection and mental health cases (Victoria Climbié and the Laming inquiry of 2003; Christopher Clunis and the Ritchie inquiry, 1994), there has been a rise in the concept and practices of risk assessment and management. As a result, government policy and legislation has ensured assessment has been at the heart of social work activity in relation to community care, children and families and youth justice. The *Department of Health's Framework for the assessment of children in need and their families* 'provides a systematic way of analysing, understanding and recording what is happening to children and young people within their families and the wider context in which they live' (DoH, 2000. pviii). The Children Act 2004 introduced the Common Assessment Framework which is discussed later in this chapter.

This structured assessment framework has been mirrored to some extent in youth justice with the introduction of Asset in 2000. Following the implementation of the Crime and Disorder Act 1998 and multi-agency YOTs, the Youth Justice Board (YJB) was established to oversee and manage the youth justice system. One of its first tasks was to commission the development and introduction of a national assessment tool to be rolled out across England and Wales. This was significant as prior to the Crime and Disorder Act 1998, there was no standardised assessment tool or process being used by the then youth justice teams; some teams adopted their own models, while practitioners undertaking assessments used a variety of approaches, some good, others poor. The research and design of the assessment tool was carried out by the Oxford University Centre for Criminological Research and involved an extensive review of the research literature relating to risk and protective factors for offending young people together with consultation with practitioners, managers and specialists from a range of relevant services (Baker, 2004). Asset was also adapted from assessments used by the probation service with adults for appropriate use with children and young people.

The kinds of risk factors identified from research-based, longitudinal studies include a range of factors that 'cluster together in the lives of some children while important protective factors are conspicuously absent' (YJB 2005b, p8), such as 'individual features, psychosocial features and societywide influences' (Rutter et al., 1998 in YJB, 2005b, p8). Research findings demonstrate the following factors (cited in YJB, 2005b) contribute to offending by young people:

- Children whose parents are inconsistent, neglectful and harsh are at increased risk of criminality as young people (Newson and Newson, 1989).
- Family conflict – quality of parent–child relationship, parental supervision and discipline, family income, the nature of relationship breakdown between parents (Utting et al., 1993, Graham and Bowling, 1995).
- Family history of criminal activity (Farrington, 1995).
- Low income, poor housing and large family size (Utting et al., 1993, Farrington, 1992).
- School factors – low achievement in primary school.
- Aggressive behaviour and bullying (Rutter et al., 1983).
- Disadvantaged neighbourhood.
- Availability of drugs.
- Hyperactivity and impulsivity.
- Low intelligence and cognitive impairment.
- Alienation and lack of social commitment.
- Early involvement in crime and drug misuse.
- Delinquent peer groups.

Research has also identified certain protective factors that can reduce the likelihood of a young person offending, including being female (Home Office, cited in YJB, 2005b), being of resilient temperament, a sense of self-efficacy, a positive, outgoing disposition and high intelligence (YJB, 2005b, pp26–7). For further information on risk and protective factors, see the YJB *Risk and protective factors* report at www.youth-justiceboard.gov.uk/Publications/Downloads/RPF%20Report.pdf

Asset

Figure 6.1 shows how Asset has been designed, based on the availability of research evidence with practitioners required to complete all the sections identified in order to assess the likelihood/risk of the young person re-offending. Each section is then rated from 0 to 4 giving a total up to a maximum of 48, the higher the rating the higher the risk of the young person re-offending.

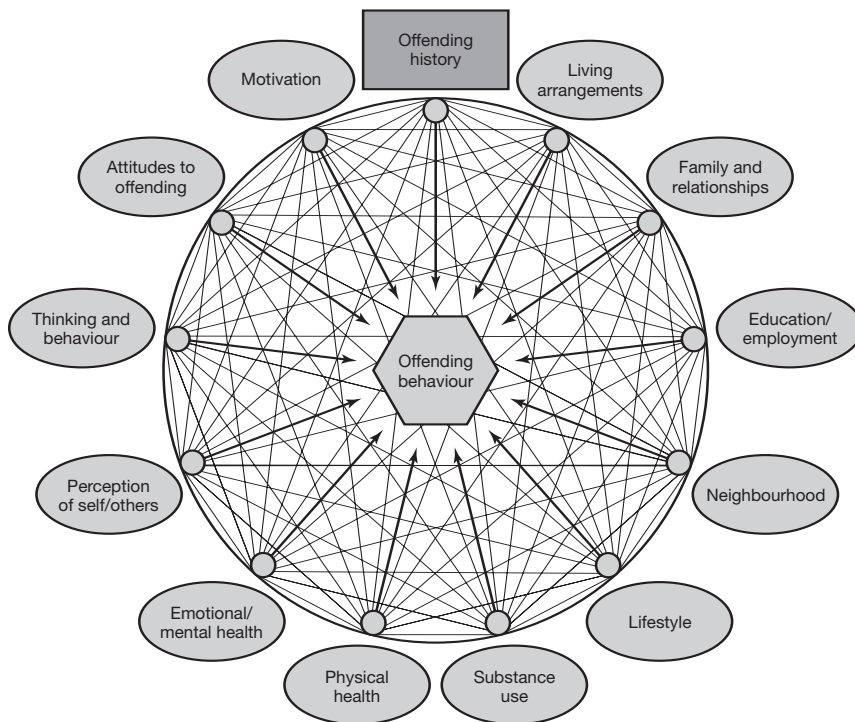


Figure 6.1 *Components of Asset core profile*

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Asset is designed to be used with every young person coming into contact with a YOT at the final warning, referral order and pre-sentence report (PSR) stages, as well as with young people appearing in court where bail is an issue. It is a tool that facilitates the systematic assessment of the circumstances and characteristics of offending young people with each factor scored according to its degree of association with the offending behaviour, providing an overall score of the risk of each young person re-offending (Burnett and Appleton, 2004).

In the YJB's *Key elements of effective practice (KEEP) on Assessment, planning interventions and supervision* (YJB, 2002a), good-quality assessment is seen as the basis of effective practice by helping YOT practitioners to meet the needs of young people, promoting public protection and the efficient use of resources. This document is available on line at www.youth-justice-board.gov.uk/Publications/Downloads/AssessPlanning.pdf

The YJB guidance for YOT practitioners states that:

Assessment should be an ongoing process that involves the young person and, where possible, the young person's parents/carers. It should provide a picture of a young person within their particular environment that will support the identification of needs, an understanding of the patterns of their offending behaviour and the planning of effective interventions. It should also take account of diverse family, ethnic and cultural backgrounds. (YJB, 2002a, p7)

It is important to bear in mind that assessments in youth justice are generally carried out following court mandated action with young people generally presenting involuntarily. It is anticipated that Asset will be carried out by the practitioner in consultation with a range of other people. The core profile is the Asset that is used in most cases.

ACTIVITY 6.2

List the people/sources of information that you might need to speak to or access in order to complete a thorough assessment of a young person and their offending behaviour and any barriers you may encounter in carrying out an assessment. Once you have done this, take a look at the assessment section of the KEEP guidance (YJB, 2002a) to identify if you have considered all aspects.

You will have no doubt considered that the young person will need to be interviewed in order that you can gain a picture of what is going on in their life, why they carried out the offence that has led to their contact with the YOT and how they feel about this. You may have established that this would need to be take place over a number of meetings, including a home visit, so that you can verify information obtained, seek more information and make sense of this in the context of the young person's life. As the young person is still a minor you probably also considered that contact with the young person's parent or carer is vital. If the young person is known to a social worker in a children and families team it would also be important to speak to them, and to a relevant teacher from school. Did you think about looking at the evidence from the police and Crown Prosecution Service so that you have an account of the offence other than the young person's? If the young person has offended previously, they may also be known to the YOT and case records would then need to be referred to. It is crucial that the assessment process is not carried out in isolation but in partnership with all other relevant individuals, with information shared where appropriate and necessary. It may be that other assessments have already been completed on the young person, and it is possible to obtain these. It is useful to think of the Laming (DoH/HO, 2003) criticisms in the Climbié case where agencies did not work collaboratively or share information. The setting in which the assessment is undertaken is also important

and this may variously be your office, the young person's home, the court and the secure estate. How a young person responds in different settings may vary. This is not an exhaustive list and further advice is given in the Asset guidance produced by the YJB (see the Youth Justice Board website).

High-quality assessments

In order for an assessment to be of good quality, it is important that you prepare for the first interview by being aware of the purpose of the meeting so that this can be explained clearly to the young person, using language they understand that is appropriate to their age and developmental stage. Reference here to the life-course perspective mentioned in Chapter 1 is relevant. Asset is designed for use with young people aged 10 to 18. Clearly this is a wide age range with differing levels of cognitive development; in addition, some young people will have learning difficulties. These are issues you must consider in your assessment as this may influence the young person's response to some of the issues addressed. It is important that the young person and their parents/carers understand the reason why they are being assessed, the process that will follow and what the potential outcomes may be. Checking that this has been understood by asking the young person to explain what you have said to them is a useful exercise. Discussions here about the YOT's confidentiality policy and its limits should also take place; this is particularly important given the multi-agency nature of YOT's and the case management approach they adopt.

Revisiting the issues relating to values and anti-discriminatory practice introduced in Chapter 1 is important so that you are aware of the morals and beliefs that form part of your value base and how these might impact on the questions you ask, the impressions you build and judgements and decisions you make. For instance, if you are assessing a young person from a different ethnic or cultural background you need to check that you are not making any assumptions. Interpreters should be used if required by either the young person or their parents/carers, and care should be taken that eye contact and body language communication is maintained with the young person being interviewed rather than questions being directed towards the interpreter. The work of Egan (2002) is relevant here in relation to effective communication skills, such as active listening, probing and summarising, and these should be covered in your social work degree programme.

While there is an Asset self-assessment specifically designed for young people to complete which could be used at the start of the first interview, the Asset core profile should not be completed section by section in the interview, rather, each section should be addressed over the course of interviews, through for example, contact with other relevant people and available reports. By the end of the information gathering, you should be in a position to complete each of the sections, record the evidence and then give an appropriate rating for that section. As well as focusing on the criminogenic (risk) factors, it is important to look at the more positive protective factors relating to the young person and their life. You should use the young person's completed 'What do you think?' Asset to inform your final assessment, checking for any inconsistencies. Evidence must be provided in relation to each aspect of the assessment so that concrete and specific examples explain why they contribute to the likelihood of the young person re-offending or not.

Criticisms of Asset

Completing Asset for the first time can be quite difficult, particularly in deciding which rating to give to each section. While many practitioners find Asset to be a valuable tool in structuring a complex assessment process, ensuring that all areas are addressed, others (Smith, 2003b; Pitts, 2003), are critical of the routinisation it causes, seeing it as a management tool both locally and nationally. Criticism is also made of the 'tick box' nature of Asset and its over-reliance on negative risk factors to the negation of positive strengths, which is inconsistent with more recent government thinking on assessment and service-user involvement (*Framework for assessment of children in need and their families*, *National service framework for older people*, the Common Assessment Framework). Smith (2003b) summarises the concerns of practitioners in research carried out by Roberts et al. (2001) as follows:

The concerns of YOT members about the spurious use of an apparently objective scoring system such as this focused on a number of specific issues: uncertainty about what a specific score actually means; lack of ability to 'weight' some sections which might be more or less relevant; the negative impact of finding out more about a young person (especially significant because of the overall negative bias of the ASSET form); and possible misuse of the aggregate data by the Youth Justice Board. (Smith, 2003b, p101)

This perspective is not uncommon in relation to standardised assessment tools, with clinical assessments perceived as enabling practitioners to exercise more skill and professional judgement. Proponents of such tools argue, however, that they are rooted in empirical data and their predictive value can be researched and evaluated. For more of a discussion on the problems with actuarial assessments see Annison (2005). Baker (2004) argues that the effective use of Asset 'requires the use of considerable professional skill and expertise' as 'practitioners are asked to make decisions about a wide range of issues, from practical assessment of the suitability of a young person's accommodation arrangements to judgements about their self-perception, levels of victim awareness and motivation to change' (Baker, 2004, p81). She suggests that the ratings are based on practitioners' own clinical judgements rather than arrived at by the number of boxes ticked in a particular area. As university students, you may wrestle with the prescriptive nature of Asset that seems to contradict the importance of critical thinking skills that you have developed during training. As your practice develops, you will need to develop the ability and confidence to use Asset as a tool to enhance your practice without being afraid of approaching every assessment critically to ensure that you are asking the right questions to acquire the right information. Asset, while comprehensive, cannot cover every eventuality so you need to probe in some areas in more depth than it may indicate, such as when trying to uncover the trauma experienced by a young person seeking asylum. While it requires you to tick boxes, Asset also contains evidence boxes and this is where you have the freedom to move away from the prescribed.

Whichever perspective you adopt, there is no escaping the fact that assessment in youth justice is a complex, detailed, time-consuming exercise, laden with professional dilemmas and ethical issues. It is important therefore, that assessment issues are reflected upon regularly and discussed with colleagues and in supervision. You need to continually

acknowledge that the decisions made on the basis of an assessment can have a profound impact upon a young person's life. Ensuring you have gathered and analysed all the information you need as well as providing evidence for your decisions is crucial if your assessment is to stand any chance of being fair. Bearing in mind your assessment will probably be read by colleagues/other professionals, evidence to qualify ratings will enable those people to fully understand the issues attached to that rating. A score of 0 should also have evidence to demonstrate why this aspect of the young person's life is not problematic or related to the likelihood of them re-offending.

ACTIVITY 6.3

Based on the information in the continuing case of Jermaine below, introduced in the previous chapter, applying your knowledge and skills of assessment, look at each section of the core Asset to assist you in completing a report from the court. The full Asset core profile can be obtained from the following link: www.youth-justiceboard.gov.uk/PractitionersPortal/Assessment/Asset.htm

You are not expected to complete the assessment but to familiarise yourself with Asset and consider what issues you would want to address specifically in this assessment. What kind of questions would you want to ask Jermaine and who else would you want to speak to?

You are allocated the case of Jermaine to prepare a pre-sentence report for three weeks' time. He has pleaded guilty to the driving offences: taking a vehicle without consent, having no insurance and no licence and failing to stop for the police. The PSR request paperwork states that Jermaine is aged 15 years, 7 months, lives at home with his mother, stepfather and younger brother (12) and sister (9). He sees his birth father periodically. Jermaine attends the local secondary school and is a member of the football team. He has a reprimand for theft from 18 months ago. He was on bail supervision for three months in relation to a robbery charge that was committed to the Crown Court.

Your response to this activity will be determined by how much you have familiarised yourself with the Asset assessment tool and the guidance available from the YJB. In any event, you are likely to have wanted to obtain the evidence papers detailing the offence that Jermaine has pleaded guilty to so that you can interview him in order to ascertain his actions and intentions. You would want to know details of the offence – when and where it occurred, if anyone else was involved, and exactly what role Jermaine played. You may also have questioned him as to how the offence was committed, whether any planning took place, whether the victim was targeted and if Jermaine had been under the influence of any substances at the time. Your interview would want to identify whether there were any inconsistencies in Jermaine's intentions and actual behaviour. You would also want to consider any factors that make the offence more or less serious, known as aggravating or mitigating circumstances.

As well as the prosecution documents you may also be able to obtain a victim impact statement. Most YOT police officers carry out this role, which may involve contacting the victim of an offence in order to assess how they have been affected by it. (See Chapter 8 for a fuller discussion about victims.) This might be useful to have in your interview with

Jermaine in order to determine his attitude towards the offence, both at the time it was committed and now he has had the opportunity to reflect upon it: you will need to comment on what level of remorse, if any, he has demonstrated. You will also want to try and understand why Jermaine committed the offence and knowledge of his personal and social circumstances will inform your thinking as well as any motives he may have had. This may include any particular attitudes or beliefs that may have influenced the offence, such as that it is acceptable to steal cars as people have insurance and do not 'lose out'. Finally, you would want to locate this instance of offending within Jermaine's overall behaviour and therefore you would need to look at the details of any previous offences, whether there are any similarities, whether his offending is becoming more serious in nature and what response he has made to previous involvement in the youth justice system. Remember that you are supposed to be providing an analytical account that goes into detail rather than just giving a description of events. Your thinking should be firmly located in the theoretical framework outlined in Chapter 3.

You would want to raise all of these issues in your interview with Jermaine but you would also want to speak to his parents, his school and the YOT officer who worked with him on the bail supervision programme. It may be that your conversations with these people identify other areas to be pursued, for instance his football coach. It is important to remember that you are looking for evidence relating to protective factors, not just those associated with risk, so that you are giving a balanced view and that the proposed intervention resulting from your assessment focuses on his strengths as well as any problematic areas. You would also want to incorporate Jermaine's 'What do you think?' Asset as well as consider previous assessments in relation to his bail supervision.

Pre-sentence reports

The pre-sentence report that would need to be prepared in a case such as Jermaine's should follow a standard format outlined in the YJB National Standards, (2004b). This consists of:

- *Sources of information* – the people spoken to and documents referred to are stated;
- *Offence analysis* – provides the court with your analysis of the offence, its context, the impact upon the victim and an understanding of why it happened.
- *Offender assessment* – looks at the circumstances of the young person in relation to family, education, previous offending, including any mitigation.
- *Assessment of risk* – an assessment of the risk of the young person re-offending is made. The focus here should also be about the assessment of risk to the public and the risk to the young person.
- *Conclusion* – summarises the main issues and includes a realistic proposal to address the risks/issues identified in the main body of the report.

That pre-sentence reports are important is perhaps best evidenced by research findings that demonstrate that high-quality reports have a significant impact on resulting sentences. A 2000 study by the YJB cited in Bateman and Pitts (2005) found that 'PSRs in low custody areas achieved a higher score in a quality audit than areas with a higher level of incarceration' (Bateman and Pitts, 2005, p 116).

RESEARCH SUMMARY

Effectiveness and evaluation of Asset

Burnett and Appleton (2004) undertook research at Oxfordshire YOT, one of the few 'pathway' YOTs designated by the YJB to trial the new legislation and policy changes. The researchers followed the progress of the YOT for two and a half years, focusing on a wide range of issues including Asset. Feedback on the implementation and use of Asset was varied, with some practitioners finding it a useful structure to follow while other, more seasoned staff were more critical:

Some dissatisfaction with Asset was linked to perceptions of it as needlessly detailed, not to benefit practice but to serve as a research tool for performance monitoring and to supply statistics to the YJB. The most critical practitioners objected that their judgements were being forced into tick boxes to feed the government information machine. Managerial staff in the YOT, however, found that the tool generated invaluable aggregate information, added to the YOT's database, for monitoring work and for estimating resource requirements. (Burnett and Appleton, 2004, p33)

The Youth Justice Board commissioned research into the validity and reliability of the Asset assessment for young offenders, which looked at findings from the first two years of the use of Asset. This evaluation took place over 18 months with 39 YOTs nationwide. The data sample consisted of 3,395 Asset completed profiles with 82 per cent male and 18 per cent female and 10 per cent from ethnic minorities. It also included 627 'What do you think' Assets. The study presents information in relation to the range of factors included in Asset, such as the young person's living arrangements, education and vulnerability. It also shows that the current Asset rating score predicted reconviction with 67 per cent accuracy which was maintained with specific groups such as females, and it was found to be predictive of frequency of reconviction and sentence at reconviction. Results in relation to reliability were seen as encouraging with a 'generally good level of reliability between teams within YOTs and between staff from different professional backgrounds' and a 'high degree of consistency in the ratings of individual assessors' (Baker et al., 2003, p7).

Further research is planned to assess the accuracy of Asset on measuring change over time and to develop its use. Clearly this would be useful as Asset is still relatively new and its use by practitioners will hopefully improve along with training, guidance and research evidence.

Risk assessment

In the youth justice field, the area of risk assessment is a multi-layered affair consisting of assessing the risk of re-offending of each young person, the risk to the young person in terms of their vulnerability and any risk of harm they may pose to the public. Each of these areas is addressed by Asset: the risk of re-offending and vulnerability within the core profile, and the risk of harm warranting its own additional assessment for those who trigger a positive answer to certain questions.

Vulnerability

The 'Indicators of vulnerability' section of the Asset core profile focuses on the possibility of harm being caused to the young person. It requires practitioners to assess whether there are indications that the young person is at risk of self-harm or suicide and if there are any protective factors that may reduce this vulnerability. It also considers whether the young person is likely to be vulnerable as a result of factors such as:

- The behaviour of other people (e.g. bullying, abuse, neglect, intimidation, exploitation)
- Other events or circumstances (e.g. separation, anniversary of loss, change of care arrangements)
- His/her own behaviour (e.g. risk-taking, ignorance, drugs, acting out, inappropriate response to stress)

For example, should you be working with a young person who discloses to you that they self-harm when they are feeling stressed, this would be information that would need to be recorded in the evidence box.

As with all sections of Asset, completion of this section requires that evidence is given to justify the particular rating boxes that are ticked. Given that this assessment could accompany a young person to the secure estate if they are remanded or sentenced to a period in custody, it is vital that such information is as accurate and detailed as possible as the young person may require close monitoring to ensure their own safety. Unfortunately, research shows (Goldson, 2002) that many young people in custody have a history of problems – abuse, mental health issues, educational and social exclusion to name a few – so it is highly likely that any time spent working in a YOT will include dealing with vulnerable young people, some of whom are imprisoned. In a 'civilised' society like the UK tragedies still occur, such as the death of Gareth Price, aged 16, on 20 January 2005, who was found hanging in his care and separation cell, Gareth Myatt, aged 15, who died on 19 April 2004 after losing consciousness while being restrained by staff at Rainsbrook Secure Training Centre, or 14-year-old Adam Rickwood, the youngest person to die in custody in the UK in August 2004 at the privately run Hassockfield Secure Training Centre, 100 miles from his home. It was his first time in custody and it is said he had threatened to kill himself a few days beforehand, as he was finding it difficult being so far from his family and home. While this concerns the wider issue of whether custody is suitable for many young people, it also emphasises the importance of high-quality assessments informing court reports so that courts have all the information at hand before making decisions, as well as the need for the assessment to be shared with the secure estate. There is an additional mental health assessment which provides clarity as to the level of and nature of any mental health concerns.

Risk of serious harm

The 'Indicators of serious harm' section of Asset focuses on the possibility of the young person causing serious physical or psychological harm to someone. Practitioners completing it have to state whether there is any evidence of the following:

- Behaviour by the young person which resulted in actual serious harm being caused.
- Behaviour which indicates that s/he was intending or preparing to cause serious harm.
- Other (e.g. reckless or unintentional) behaviour that was very likely to have caused serious harm.

Evidence is also required of any of the following risks indicating serious harm may be likely:

- Other features of his/her offending (e.g. unduly sophisticated methods, use of weapons, targeting).
- His/her attitudes and motives (e.g. driven by desires for revenge, control or by discriminatory beliefs).
- Current interests or activities (e.g. fascination with military paraphernalia networks/associates).

Finally, consideration is given to whether any of the following cause significant concern:

- Any other disconcerting or disturbing behaviour by the young person (e.g. cruelty to animals).
- Concerns about possible harmful behaviour expressed by the young person.
- Concerns about possible harmful behaviour expressed by other people (e.g. family, school).
- Any other intuitive or 'gut' feelings about possible harmful behaviour.

So if a young person disclosed to you that they always carry a knife when they go out with their peers because that is what they 'all do', this would be evidence that you would need to record in the appropriate evidence box along with your assessment of how likely they would be to use it based on your discussions around the use of knives. If any of the above questions warrants a 'yes' by the assessor, they must then complete the separate 'Risk of serious harm' (ROSH) Asset. Specific YJB guidance is available in relation to the completion of this form and is available at: www.youth-justice-board.gov.uk/NR/rdonlyres/5F1AAE2B-C2D4-462D-BBBC-C0DC0D89772F/0/RiskofSH.pdf

The guidance advises that an analysis of the information recorded in the core Asset profile and other completed assessments is required, along with additional information to fill any gaps or unanswered questions to 'make a comprehensive assessment of risk of serious harm to others' (ROSH guidance, p1). The full ROSH Asset includes sections on evidence of harm-related behaviour, which is defined broadly as 'behaviour that has actually resulted in serious harm to others, and behaviour where there was a real possibility of such harm occurring'. Current risk indicators are also addressed, as is future harmful behaviour, with a concluding section in which an assessment of low, medium, high and very high risk needs to be made. On the basis of this classification, an indication is then required as to which Multi-Agency Public Protection Arrangements (MAPPAs) level the young person is assessed as being at. There are three levels: at level 1 risk management should be dealt with by the YOT through normal supervision procedures; level 2 requires local interagency

risk management and attendance to level 2 Strategic Management Board meetings; and level 3 requires an automatic 'referral to the Multi-Agency Public Protection Panel where a structured and detailed risk management plan is developed' (ROSH guidance, p8). YJB guidance – *Dangerous offenders – Guidance on Multi-Agency Public Protection Arrangements* – is available at: [www.youth-justice-board.gov.uk/NR/rdonlyres/ C27BBD54-8FA1-4378-A841-55F92BBF28DC/0/MAPPAguidance.pdf](http://www.youth-justice-board.gov.uk/NR/rdonlyres/C27BBD54-8FA1-4378-A841-55F92BBF28DC/0/MAPPAguidance.pdf)

It is important that the assessment is reviewed and updated regularly in the light of any changes.

While assessing and managing risk is an extremely important part of the work of a Youth Offending Team social worker it is important also to bear in mind that most young people you will be working with will not be assessed as dangerous. Completion of the ROSH Asset will only be required in a minority of cases and it is imperative that young people are not identified and labelled a serious risk unless there is significant evidence to support such a claim.

Common Assessment Framework

The government's response to the Laming inquiry into the death of Victoria Climbié (DoH /HO, 2003) was published in the Green Paper *Every child matters* (Home Office, 2003a), which then led to the Children Act 2004 being passed. This proposed a Common Assessment Framework (CAF) designed to assist all practitioners working with children in universal and specialist services to 'assess children's needs earlier and more effectively' (Common Assessment Framework briefing, DfES, 2005).

The CAF aims to:

- Provide a method of assessment to support earlier intervention.
- Improve joint working and communication between practitioners by helping to embed a common language of assessment, need and a more consistent view as to the appropriate response.
- Improve the co-ordination and consistency between assessments leading to fewer and shorter specialist assessments.
- Inform decisions about whether further specialist assessment is necessary and if necessary provide information to contribute to it.
- Enable a picture of a child or young person's needs to be built up over time and, with appropriate consent, shared among professionals.
- Provide better, more evidence-based referrals to targeted and specialist services.

The CAF draws on assessment frameworks already in existence, such as the *Framework for the assessment of children in need and their families*; *Special Educational Needs Code of Practice*; Connexions APIR framework (assessment, planning, implementation and review); ASSET and others.

The government announced that it would set up a consultation exercise designed to look at how the CAF will interface with these other assessments. Draft YJB guidance (YJB, 2006a) confirms that the DfES and YJB have agreed that YOTs will continue to use Asset

because of its ability to focus on offending behaviour and predict risk of reconviction, and because it is more detailed, providing a framework for thorough analysis necessary for writing reports and the research findings that demonstrate its validity and reliability. Both the YJB and DfES are currently planning how both assessments can work alongside each other so that the benefits of each are gained by young people and practitioners. This will result in full guidance, modification of Asset and training for YOT staff. It will be necessary to consider the development and implementation of the CAF as it is adopted by local authorities between April 2006 and 2008. The guidance states that sometimes a YOT needs to complete or update a CAF on a young person and the situations in which this needs to be done may vary locally. YOTs are not expected to complete CAF assessments for all the young people they deal with; however, as a minimum the YJB advises that from April 2006 a CAF should be done when a young person needs to be referred to an external organisation, and that agency requires all referrals to be made using CAF. The guidance suggests YOT practitioners should follow three key steps in using CAF to inform Asset. These are:

- collecting information;
- analysing it;
- recording it.

It is important that you are familiar with the draft guidance; it can be downloaded at: www.youth-justice-board.gov.uk/NR/rdonlyres/E8620EA1-A90D-433E-B0FB-583F61A242C9/0/CAFdraftguidanceforYOTs.pdf

One concern over the CAF identified by Piper (2004) is that: 'Without substantial extra resources, the initial common assessment could not adequately be located in universal services without reducing expenditure on specialist services' (Piper, 2004, p737). She suggests that one advantage of the CAF could be developments that break down the 'insularity' of the youth justice system. For instance, if a young person offends who is also the subject of child protection concerns, they should also be referred to a children and families team where another assessment will be undertaken under Section 47 of the Children Act 1989, using the assessment framework. Both assessments may result in different outcomes and information is not always shared although it is anticipated that this might be addressed with the introduction of the Integrated Children's System (ICS), an information-sharing project across children's services. According to the government's *Every child matters* website ICS 'provides a conceptual framework, a method of practice and a business process to support practitioners and managers in undertaking the key tasks of assessment, planning, intervention and review'.

Piper cites a 2003 NACRO briefing that suggests YOT staff should receive training on child development and welfare if they are to effectively share the 'corporate parenting culture and associated aims and objectives' (Piper, 2004, p739). Piper suggests that the CAF may assist in bridging the gap between the separate assessment tools and systems as well as the differing professional cultures in the child protection and youth justice systems. Piper is critical of assessment questionnaires and scales which produce a numerical score to determine outcome as these 'are a visible indicator of the "actuarial justice" that is colonising penal systems and also of the preoccupation in our "risk society" with the calculation

and diminution of risk' (Piper, 2004, p740). She concludes that assessment frameworks must be developed and used with caution so that they are only a tool guiding professional judgement rather than determining what the judgement should be. It is perhaps interesting that the Department of Health has commissioned a project focusing on analysis and the exercise of professional judgement with a view to helping practitioners use and critically evaluate assessment frameworks and scales. The results of this project, 'Putting analysis into assessment 2003–2005' should soon be available. Hopefully the findings will be used to tie in with the implementation of the CAF and how it will be used alongside assessment tools such as Asset.

C H A P T E R S U M M A R Y

In this chapter we have considered what the purpose of an assessment is, when assessments are used and what makes a good assessment. We have identified that ensuring assessments are thorough information-gathering exercises with concrete evidence provided and used in making analyses, judgements and decisions is extremely important. You have been introduced to the assessment tool, Asset, used in youth justice, as well as the research that has informed its development. We have looked at the complexities and difficulties involved in carrying out an assessment and considered the issues raised in a case study which has helped you to relate the National Occupational Standards to a practice context. We have examined the concept of risk assessment and the importance of ensuring assessments are carried out properly to ensure accuracy and the obtaining of detailed information that can then be analysed so that appropriate judgements can be made. Finally, we have looked at the advent of the Common Assessment Framework and how this may impact on youth justice. In the next chapter we will begin to consider applying the assessment to the planning of, carrying out and evaluating work with young people.

FURTHER READING



Parker, J and Bradley, G (2003) *Social work practice: Assessment, planning, intervention and review*. Exeter: Learning Matters.

This text provides a useful overview of assessment within the social work process of assessment, planning, intervention and review.

Milner, J and O'Byrne, P (2002) *Assessment in social work, 2nd edn*. Basingstoke: Palgrave Macmillan.

This book summarises a range of theories relevant to the assessment process.

Chapter 7

Working with young people

Paul Dugmore

A C H I E V I N G A S O C I A L W O R K D E G R E E

This chapter will help you begin to meet the following National Occupational Standards.

Key Role 2: Plan, carry out, review and evaluate social work practice, with individuals, families, carers, groups, communities and other professionals

- Respond to crisis situations.
- Interact with individuals, families, carers, groups and communities to achieve change and development and to improve life opportunities.
- Prepare, produce, implement and evaluate plans with individuals, families, carers, groups, communities and professional colleagues.
- Support the development of networks to meet assessed needs and planned outcomes.
- Work with groups to promote individual growth, development and independence.
- Address behaviour which presents a risk to individuals, families, carers, groups and communities.

Key Role 3: Support individuals to represent their needs, views and circumstances

- Advocate with, and on behalf of, individuals, families, carers, groups and communities.
- Prepare for, and participate in decision making forums.

Key Role 4: Manage risk to individuals, families, carers, groups, communities, self and colleagues

- Assess and manage risks to individuals, families, carers, groups and communities.
- Assess, minimise and manage risk to self and colleagues.

Key Role 5: Manage and be accountable, with supervision and support, for your own social work practice within your organisation

- Manage and be accountable for your own work.
- Contribute to the management of resources and services.
- Manage, present and share records and reports.

Key Role 6: Demonstrate professional competence in social work practice

- Research, analyse, evaluate, and use current knowledge of best social work practice.
 - Work within agreed standards of social work practice and ensure own professional development.
- It will also introduce you to the following academic standards as set out in the social work subject benchmark statement:

3.1.4 Social work theory

- Approaches and methods of intervention in a range of community-based settings including group-care at individual, group and community levels, including factors guiding the choice and evaluation of these.

3.1.5 The nature of social work practice

- The nature and characteristics of skills associated with effective practice, both direct and indirect, with a range of service users and in a variety of settings.
- The integration of theoretical perspectives and evidence from international research into the design and implementation of effective social work intervention with a wide range of service users, carers and others.

- The processes of reflection and evaluation, including familiarity with the range of approaches for evaluating welfare outcomes, and their significance for the development of practice and the practitioner.
- 3.2.2 Problem solving skills:
3.2.2.4 Intervention and evaluation; and
3.2.3 Communication skills

Introduction

This chapter focuses on the different types of work that YOT social workers undertake with young people who have offended or are at risk of offending. We look at the importance of establishing an effective working relationship based on professional boundaries and the need to engage young people. We also return to the issues of diversity, equality and working with difference. One of the most important factors in the prevention of offending by young people is the intervention programme that is undertaken as part of a final warning or court order. Following on from the previous chapter and the need for assessment to be integral to the social work process, we also concentrate on planning, reviewing, ending and evaluating interventions with young people and the frameworks in place for achieving this. Finally, we consider the different approaches to working with young people in the context of one-to-one work, group work and restorative justice.

Building a relationship

Being able to form professional relationships is fundamental to good social work practice and the importance of being able to do so is enshrined in the National Occupational Standards and GSCC Code of Practice for Social Care Workers. This is particularly relevant in youth justice where as a social worker you are in a clear position of authority – an officer of the court, working with young people who are often disadvantaged, progressing through troubled adolescence, resistant to authority and who possibly have experience of abuse, emotional and/or behavioural problems and exclusion from school. As a social worker in a YOT, your first point of contact with a young person may be at court, where they may well be anxious, overwhelmed and scared about the ensuing process and possible outcomes. Being able to explain to the young person and their family in a warm and courteous way what might happen can allay some of their fears. You may meet a young person for the first time as part of the assessment process when you are assessing them in order to complete a report for the court or referral order panel or in relation to a final warning (see Chapter 6).

ACTIVITY 7.1

What do you think are the key considerations in starting a new professional relationship with a service user? Are these any different when the service user is (1) a young person? (2) a young offender? Practise introducing yourself as a social worker to a young person you are meeting for the first time.

If you are allocated a case of a young person you have previously assessed, it is generally easier to build a working relationship as you will have already started the process. If you start working with a young person who is previously unknown to you, however, it is vital that you develop a relationship based on some clear ground rules very early on.

If you find this task difficult, it may be helpful for you to think back to when you met a professional for the first time as a service user, such as going to see your doctor or bank manager. How was it? How do you expect to be treated? The things that are important to you are probably important to other people too.

Initial contact

It is essential that you always prepare before commencing work with a young person. It is crucial to be clear about the purpose of your intervention so that you can explain this clearly and easily. You will probably have previous information on the young person you are meeting that you can read to give you a useful picture of what the issues are for the young person and what has led to them being in contact with the youth justice system. It may mean that you can avoid asking questions that they have already been asked on numerous occasions, although questioning is an important part of the relationship building phase. It is also useful to bear in mind that the information you may have read prior to meeting the young person may be inaccurate, negative or the view of another person and you may form a different view. For instance, the young person may have been very uncommunicative in a previous interview with a colleague of yours perhaps due to an incident at school or at home before the interview which was not disclosed to your colleague, who may have perceived the young person in a particular way. In your first meeting with the young person they may be much more open and talkative than they were with your colleague because the events of the day are different. Therefore, be open-minded about the information you have already and be prepared to form your own opinions.

As you approach an initial social work contact, it is important to think about the first impression that you make on a service user who may have a range of feelings about social workers, from ambivalence to mistrust. Koprowska, writing about the significance of first impressions in social work practice, offers four principles (2005, p53–4):

- 1 *Be clear* – use simple language, free from jargon and pompous phraseology.
- 2 *Be concise* – prepare yourself so you know the key issues in any situation, and can communicate them succinctly.
- 3 *Be comprehensive* – keep in mind all the key issues, and watch out for sidelining information that makes you feel uncomfortable.
- 4 *Be courteous* – courtesy is much more than good manners, though these are essential, and a certain level of polite formality is important when communicating with people new to us. Courtesy is also the way in which the underpinning values of social work are communicated – our respect for individuals and their uniqueness, and our commitment to anti-discriminatory and anti-racist practices and hence our respect for diversity.

Some criminological theories such as subcultural and Marxist approaches, outlined in Chapter 3, would suppose that young people will perceive you, as a YOT social worker, as part of the state/authority and therefore as an agent of social control. This may mean you are viewed with suspicion. While being clear about your role and purpose, and the authority contained therein, you should also be able to demonstrate that you are aiming to work in the young person's best interests. Practical examples of this, such as demonstrating respect and understanding, will hopefully mean that trust begins to develop. Such theories may also attribute possible notions of collusion whereby a young person might think you are 'on their side', particularly if there are shared identities such as class or ethnic grouping. This can pose a challenge, as you have to retain professional boundaries while perhaps demonstrating some level of personal understanding or empathy.

A first meeting should start with an introduction so that you clarify your name, your role and that you are the young person's allocated social worker. Checking out what the young person likes to be called is also helpful as this may differ from their full name. Lessening the anxiety the young person may be feeling can be achieved by trying to make them feel at ease. It is important that the young person understands why they have to attend the YOT and what your role will be in working with them. This is a good time to talk about your expectations of the young person in terms of agency policy, the requirements of their order, National Standards and anything else you think is important. It is also necessary to establish if there are any expectations the young person may have of you or the service, and questions they may have about your role and what they might want from the intervention, as this can then form the basis of contract setting or planning that you will work towards over the course of the intervention. This should include:

- Giving information about the office opening hours.
- How you can be contacted.
- Establishing the best time for appointments to be made with the young person, taking into account religious observances.
- Informing the young person of the enforcement procedure and what happens when appointments are missed.
- Ensuring that the young person is aware of the complaints procedure.
- Explaining how confidentiality works, particularly in a multi-agency team.
- Introducing the young person to the notion of partnership.
- Outlining that you will also be working with parents/carers.

A welfare approach to working with young people

Core social work values such as respect, empathy, acceptance and partnership should underpin all your practice with young people and their families. The discussion that took place in Chapter 1 is relevant here, as how you view young people who have committed offences will contribute greatly to your ability to forge strong, positive and supportive working relationships with them. As well as being mindful of their age and stage of emotional, physical and intellectual development and their social circumstances, it is essential

that their experiences to date are taken into account in terms of shaping who they are and why they might be displaying certain criminal or negative behaviours. Thinking back to Chapter 3 and the different criminological theories to help identify the cause(s) of criminal behaviour should help. There are many writers who emphasise the importance of the relationship in helping professions (Rogers, 1976; Egan, 2002), and there is reference to it in the *Statement of expectations* (TOPSS, 2002) accompanying the National Occupational Standards for Social Work. This importance is put into perspective if you think about the kinds of young people you will be working with. Research looking into the links between risk factors and offending behaviour, carried out by Liddle and Solanki (2002), found that the young people in their sample had an average of about six risk factors. Some of their findings are as follows (2002, p1):

- Only 14 per cent were living with both biological parents, 66 per cent lacked a good relationship with one or other parent.
- 22 per cent had suffered bereavement, 39 per cent family breakdown or divorce and 34 per cent had lost contact with significant people.
- 44 per cent had experienced neglect or physical, sexual or emotional abuse, or had witnessed violence in the family.
- 22 per cent were looked after by social services, 27 per cent had been previously.

This is only one study, but there are many more that show similar findings (Goldson, 2000; YJB, 2003b; NACRO, 2003b). Faced with such data it is important to bear in mind that building a relationship may be extremely difficult with some young people; they may not have experienced much boundary setting in their lives or have not been treated with respect or listened to. As a result, they may experience the supervisory relationship as difficult, leading them to attempt to sabotage it in a number of ways. Remaining clear about your purpose, reflecting on your practice and demonstrating understanding but firmness will all be crucial in determining a successful outcome.

However, it is perhaps easy to lose sight of the fact that you are dealing with children and young people when the system you are working within now operates according to principles of responsibility, where *doli incapax* has been removed and opportunities to adopt a 'child first' philosophy (Haines and Drakeford, 1998) have been reduced. Indeed, research undertaken in YOTs in Wales by Cross et al. (2003) found that social work students on placement in YOTs found that young people tended to be perceived as young offenders. One student commented:

That was something I was very conscious of coming into it. There's not as much recognition of them not being adults – and they're children not adults. The wording is all around offenders rather than young people. (Cross et al., 2003, p159)

It is important that as both a student and a newly qualified practitioner in youth justice you strive to retain your social work identity within a multi-agency environment and keep an analytical approach to the systems and processes you work in. Youth justice, like all other areas of social work, continues to move towards more managerialist, performance-led practice. This approach, combined with the justice components of New Labour reforms, sometimes makes it difficult to remain child-focused in what can be a demoralising world.

As was identified in Chapter 2, the youth justice system is fraught with competing tensions between justice and welfare approaches and you need to be able to maximise the opportunities for practising a welfare approach. You may struggle to do this when you are working with colleagues who adopt a justice approach and a system that can be seen as the 'maze' that was discussed in Chapter 2. You may find that the different theoretical approaches presented challenge your practice. For example, you may agree with the notion of the self-fulfilling prophecy espoused by labelling theorists that can arise from young people being labelled as young offenders. You may find it difficult to do anything about this as the system perpetuates it. This is where the importance of building a trusting relationship with young people can impact positively as you are able to see them as young people not offenders, and assist them in seeing themselves as more constructive members of society with opportunities for development and success.

Working with young people in youth justice also requires you to understand the emotional context of a young person's life at the beginning and each time you see them, as this can change from one appointment to the next. Their emotions may range from anger or loss to anxiety or frustration. It is important to acknowledge how such feelings may impact upon a young person and therefore on the work you do with them at a given time. Not all emotions will be openly displayed and it is useful to be able to read body language, as well as to be aware of how your behaviour is interpreted by them. Being aware of your findings is essential if you are to work effectively with the emotions of young people, as you may sometimes feel annoyed or upset by, or irreverent to, them. Acknowledging these findings and ensuring that the young person is not aware of them, let alone affected by them, is all part of developing your own self-awareness or emotional intelligence. In his book *People Problems*, Thompson (2006) offers useful strategies for dealing with conflict and recognising the significance of loss and grief amongst others.

In order to work effectively with users of social work services you need to develop the skills to work in partnership with young people and their families. As Trevithick (2005) states:

Positive practice must involve service users if it is to achieve agreed objectives (empowerment and personal responsibility) and that within this process, service users must be seen not only in terms of the 'problems' they bring, but also as whole people who have an important contribution to make in terms of their knowledge and perception of the situation, personal qualities and problem-solving capabilities. (2005, p228)

Thompson (2005, p140) suggests that social workers can take steps to ensure that partnership is enshrined in practice:

- Keep communication channels open with clients and carers.
- Consult with relevant people when undertaking assessments.
- Work *with* people when carrying out your intervention.
- Do not rely on stereotypes or assumptions about service users or colleagues.
- Remember that responsibility for resolving the situation is shared.

Working with difference

In Chapter 1 we looked at values and ethics and how these might impact on your work as a social worker within youth justice. Chapter 3 considered the over-representation of males and ethnic minorities in the youth justice system. How you practise an anti-discriminatory and anti-oppressive approach will also help determine your success in engaging young people. How you treat young people as service users and demonstrate acceptance of them as individuals in spite of their offending will also contribute to this process of engagement. Given that you will be working with young people from a range of cultural, racial, religious and social backgrounds, of different ages, sexualities and with a range of physical disabilities and learning difficulties, you will need to develop skills and competence in working with difference. It is not possible to be an 'expert' in working with difference and a complacent or arrogant attitude in this regard will soon see you coming unstuck. We are always learning, possibly nowhere more so than in the area of working with diversity, and we can never know what life is like for people from every background. Some basic principles should assist in starting to build a relationship:

- Demonstrating respect for all young people.
- Listening to what they say.
- Ensuring you are understood.
- Not making assumptions.
- Showing an interest in their culture, religion, etc. – asking them to talk about this and what it means to them in terms of how they want you to work with them.
- Identifying if they have any specific needs that you need to be aware of.

Planning your work with young people

The YJB's *Key elements of effective practice: Assessment, planning, interventions and supervision* guidance referred to in Chapter 6 (YJB, 2002a) provides the framework that YOT practitioners must follow in their work with young people. The main aim of this guidance is to impress upon practitioners the importance of ensuring that any assessment of a young person should be clearly linked to a plan of intervention that responds to the identified risks and needs in order to reduce their likelihood of re-offending. This is where knowledge of relevant criminological and social work theories will need to be applied. Plans should also take into account any positive factors in the young person's life so that these can be incorporated in the intervention programme. The KEEP guidance recommends that before meeting a young person the allocated worker:

- *Collects together all the existing information about them (e.g. Asset . . . information about their interests, activities and achievements as well as any attempts to find missing information).*
- *Should make a preliminary evaluation of the responsiveness of the young person and consider how the service can best meet their needs.*

- *Should take into account the motivation and preferred learning styles of the young person, and the resources available to them in the community (e.g. helpful school) or the opportunities to participate in specific programmes or activities within the secure estate.*
- *Should consider their own individual skills and expertise and how these could be used to support the young person.* (YJB, 2002a, p12)

Planning is an activity that underpins all social work practice and is not unique to youth justice; however, different areas of social work will use a different framework or planning process. The YJB reader *Assessment, planning and supervision* (2003a) suggests that Asset should be used to determine the key areas for intervention, focusing on the sections with the highest ratings; identifying positive factors and incorporating these into the plan to promote and sustain progress; and identifying mediating factors that may need to be managed if the young person is going to be able to complete the order successfully, such as health or literacy difficulties (YJB, 2003a, p60). Important in all planning is partnership with the service user. The purpose of a plan is to identify how the needs or risks identified will best be met, with tasks and timescales allocated to specific people who should carry out the tasks. The young person needs to agree with the plan and to participate in its formulation if it is to be effective, and a process of negotiation may be necessary. This can serve as part of the relationship-building exercise. Plans will also include other people such as specialist YOT workers, parents or carers and mentors. When a young person does not acknowledge an identified problem from the assessment, you will need to work with them, using a technique such as motivational interviewing, in order to help them recognise why you have identified this as an issue and to encourage them to address it.

YJB National Standards (2004b) state that:

Intervention plans must be drawn up within 15 working days of the making of the order (this does not apply to Curfew, Reparation, Attendance Centre and Parenting Orders). They must be based on risk factors associated with the offending identified in Asset and set out arrangements to address them. All assessments must consider the needs of the victim and plans will include restorative processes. They will take account of plans made for the young offender by other agencies (e.g. Social Services, Education, Health). The plan or contract should be discussed, agreed and signed by the young person and his/her parent(s)/carer(s) (YJB, 2004b, p47).

In order for plans to be meaningful they should be SMART (Talbot, 1996, cited in YJB, 2003c, p68):

- Specific
- Measurable
- Achievable
- Realistic
- Time-limited.

From the plan, therefore, it should be clear to the young person, you the social worker, parents/carers and any other workers involved, what the purpose of the objectives are. They should be clearly conveyed, agreed by both the young person and the worker and reviewed regularly. We will return to reviews later.

ACTIVITY 7.2

Following your assessment of Jermaine in Activity 6.3, he has been sentenced to a 12-month supervision order. Draw up a supervision plan to address the identified needs.

Would anything different need to be taken into account if the young person was a newly arrived asylum-seeker?

Types of intervention

The type of intervention that you and others undertake with a young person will depend on their assessed needs and risks, their age, sex, stage of development and learning styles, as well as the type and length of order and availability of resources to you and the service. Remember, as discussed in Chapter 6, plans should always seek to harness and strengthen protective factors. The YJB suggests that in deciding on a specific intervention, the following questions should also be addressed (2003a, p65):

- Is it proportionate to the seriousness of the offending behaviour and the assessed risk of re-offending?
- Will it help to reduce the risk that this young person will re-offend?
- Will it help to manage any risk of harm posed by the young person to other people?
- Will it contribute to reducing risks faced by the offender?
- Does the young person have a reasonable chance of being able to complete it?
- How will it address the concerns of any victims involved?

One of the greatest challenges you will come across will be working with young people who have no interest in working with you or for whom motivation levels are very low. Hopefully, if you ensure the basic factors discussed in developing a relationship are followed, you will at least have something to work with. There are various approaches, methods or models of intervention that you can use in your work. Some of these are discussed in this chapter, and some useful sources are recommended in Further Reading at the end of the chapter.

Casework/case management

You will have at your disposal a toolbox of interventions that you can use for particular aspects of work with young people. As discussed, establishing a good working relationship early on is essential as this will enable you to continually assess and update the existing assessment, in relation to the young person's strengths, motivations and difficulties. This is

important particularly when you start referring them to other specialist workers in the YOT or to other organisations. One of the difficulties for YOT practitioners is that it takes time for relationships to develop, especially the trust element, and many practitioners want to get to know the young person before they start referring them elsewhere. However, as National Standards require more contact at the start of an order, referring the young person to YOT specialist workers or a group work programme is one way of utilising resources in order to manage the workload. This can result in a young person being in contact with a number of different YOT staff at the start of the order and this can be detrimental to developing that all-important relationship. Research by Burnett and Appleton (2004) found that: 'The disjointed involvement allowed by the case-management model made it harder for the individual practitioner to gain the trust of young people and prevented the relaxed communication that comes with familiarity' (2004, p33).

However, as YOT caseloads have increased, with more available sentencing options for early stage offenders, the abolition of continued cautioning and the revised National Standards, case management as a model has become the norm. Despite this, Burnett and Appleton concluded that staff 'continued to regard the development of a supervisory relationship as the necessary foundation for any other work: for achieving accurate and in-depth assessment; for engaging their interest in interventions and activities; and for motivating the young person to change their behaviour' (2004, p35).

So, one of the challenges you will face as a YOT social worker is managing to build a good relationship with young people before they start having to meet with other workers within and outside of the team, sustaining this as your contact reduces and ensuring that you liaise with all the other professionals involved so that you are able to keep a firm grasp of the case and the young person's progress.

Effective practice with young people who offend

In a Department of Health briefing, *Quality protects*, Hagell (2003) identifies a number of characteristics of successful programmes to change behaviour:

- *They should be based on a clear theoretical model of how they are meant to change behaviour.*
- *There needs to be a clear focus for all the activity involved in the programme. Everyone should know what the outcome will be, and this should be specific and measurable.*
- *They last for a reasonable length of time. Six months is usually necessary if they are to have a chance of making a difference.*
- *They need to have reasonably frequent contact with the young people. As a rule of thumb this is often suggested to be around twice a week although it depends very much on the type of work being done and the needs of the child.*
- *The programme should be focusing on rewarding positive behaviour rather than on meting out punishment.*
- *Following-through the intervention with some aftercare also seems to be beneficial.* (2003, pp5–6)

The briefing goes on to identify examples of programmes with positive outcomes. These include social skills training, cognitive behavioural programmes, parent training programmes and multi-modal interventions such as multi-systemic therapy. Such suggestions are generally based on the findings of a large number of studies, through meta-analysis (Smith, 2005), where programmes deemed as the most effective in changing behaviour are those directly addressing behaviour problems 'by using a social learning approach, teaching social and interpersonal skills and helping young people to perceive and think about their own and other people's behaviour in a different way' (Smith, 2003b, p188).

Some of the cognitive behavioural techniques used with offenders include:

- *Pro-social modelling* – modelling positive behaviour and rewarding and reinforcing pro-social behaviour in young people.
- *Motivational interviewing* – working with young people to encourage them to be motivated to making changes in their lives and a belief in their capacity to learn.
- *Problem solving* – offending is reduced by enhancing problem-solving skills, often using case scenarios and requiring young people to identify problems and solutions and develop consequential thinking skills.
- *Social skills training* – this is about improving young people's skills in social situations which may include role play and assertiveness training.
- *Moral reasoning* – giving young people a range of moral dilemmas to discuss and make decisions about.

Because the research into effective practice often focuses on new, 'flagship' programmes where resources are invested heavily and motivation is high among those delivering the programmes, Smith (2003b) suggests they are not representative of what is delivered to most young offenders. He concludes that 'these findings illustrate the danger of using the "what works" evidence as a platform for extending the scope and activity of the juvenile justice system' and that 'widening the scope of intervention to include many adolescence-limited offenders will dilute the effectiveness of efforts to help the core group of life-course persistent offenders' (Smith, 2003b, p193). Goldson (2001) also cautions against the acceptance of effective practice research:

The lives of young offenders are complex and reliance on a single theory of 'reasoning and rehabilitation' or a discrete form of cognitive intervention is unlikely to produce good results. We cannot expect, nor should we expect, to discover law-like universals.
(2001, p83)

Prior (2005) reviewed evaluations of youth justice interventions and found only minimal evidence that they are effective in reducing youth offending, suggesting that those involved in youth justice should exercise caution when approaching new initiatives. He maintains that applying a critical approach and being prepared to adapt programmes to meet the needs of the specific population being worked with are essential.

Group work with young people

As a YOT social worker you will hopefully have some discretion, in consultation with your line manager, as to how you will work with a young person in order to prevent them from re-offending. You may decide that a group work programme will be useful and appropriate. The responsibility of running a group might also be one of your roles. Payne (2005) cautions:

Choosing to work with a group (rather than individuals) involves a number of decisions; choosing how to work with a particular group involves yet more. Practice also involves me – the practitioner. So I need to understand how I work and behave in groups, so that I can understand how I am working with this particular group. (2005, p122)

You may wonder how you should decide whether group work as an intervention will be an appropriate course of action. Certainly you need to consider whether the young person is ready to be in a group setting in terms of their emotional and social development. Putting someone in a group setting who already has low self-esteem may be damaging for them. You need to be aware of the learning styles of young people and any learning difficulties they may have; some may suffer from Attention Deficit Hyperactivity Disorder or Conduct Disorder in which case group work would be difficult for them. However, if managed well it can be more beneficial than one-to-one work which can be too intense for some young people. Other issues that need to be taken into account are the age and sex of other group participants and whether they have been assessed as high or low risk of offending, as it would not be sensible to mix people of significantly different ages or levels of risk together. Placing a small number of girls with a larger group of boys would also be inappropriate. Indeed many YOTs run separate groups for male and female offenders. Before referring a young person to a group programme it is important that you:

- Assess the suitability of the programme for the young person, taking into account the factors discussed above.
- Assess the young person's level of motivation and work with them to ensure that they are sufficiently motivated, particularly as non-attendance may result in you having to enforce breach proceedings.
- Explain the purpose of the programme, its requirements and expectations on the young person so that they are clear about what to expect before starting.

Once these important issues have been addressed, there are many benefits to group working with young people (Payne, 2005, pp127–8):

- The provision of a potentially fertile learning environment.
- Features of group life, such as negotiation, performing tasks, sharing thoughts and feelings, contain potential for personal development.
- Being with others with similar experiences reduces isolation and increases support.
- Supporting people to create change for themselves.
- Raising consciousness.
- Learning that there are many things that can only be achieved by co-operating with others.

However, such positive changes will only be realised provided the group is facilitated and managed well. Chapman (2005, p173) claims that effective group work requires:

- A common purpose.
- A process or set of tasks designed to achieve the purpose.
- Relationships between members which facilitate progress towards the achievement of that purpose.
- Effective facilitation.

If you are facilitating a group work programme, it is vital that you are familiar with theories and processes of group work so that you are 'in tune with the stages of development known as forming, storming, norming, performing and adjourning' (Coulshed and Orme, 2006, p254). These were originally outlined by Tuckman and Jenson (1977), cited in Coulshed and Orme (2006) where you will also find a useful summary of each stage as well as the required skills and tasks therein. Facilitating group work with young people who offend can be a very difficult and challenging experience. Chapman suggests a number of principles for workers when dealing with problematic behaviour in a group setting (2005, p178):

- Try to understand before making judgements.
- Avoid taking sides – focus on the problem in relation to group progress.
- Affirm strengths and any sign of motivation.
- Ensure the group feels safe, respected and supported.
- Move at a pace appropriate to each group member.
- Ensure that negative behaviour is not allowed to attract more attention than positive behaviour.
- Regularly review progress with the group in relation to objectives and purpose.
- Use supervision to explore their own feelings and perceptions, and to develop a skills base which contains a repertoire of responses.

Restorative justice

A central element to the Labour Government's reforms to the youth justice system is ensuring that young people take responsibility for their actions and face up to the consequences of their offending by, in part, encouraging reparation to victims. This was to be achieved by the introduction of restorative justice into the youth justice provisions, already outlined in Chapter 4 and discussed further in Chapter 8. Restorative justice has a particular philosophical base which sees offending within a wider, societal context and seeks to bring about restoration to the victim and the community affected by offending behaviour. Restorative justice has been defined as 'a process whereby the parties with a stake in a particular offence come together to resolve collectively how to deal with the aftermath of the offence and its implications for the future' (Marshall, 1996, cited in Crawford and Newburn, 2003). Elements of restorative justice are identified as being the inclusion of each stakeholder, the importance of participatory processes and the emphasis on restorative outcomes (Crawford and Newburn, 2003, p22).

Whatever part of a Youth Offending Team or Service you work in it is highly probable that you will need to be working from a restorative justice approach. As part of a police reprimand or final warning, or part of a referral, reparation, action plan or supervision order, reparation has to be addressed. This can take a number of forms: direct reparation, such as victim–offender mediation, family group conferencing, restorative conferencing or Youth Offender Panel meetings (for referral orders); or indirect reparation, which can involve community reparation or shuttle mediation where the victim and offender communicate via a third party. There are concerns about whether community reparation is restorative in nature as it may happen without the victim being consulted. However, Masters (2005) suggests that it is ‘the process through which it is achieved that defines an activity as restorative’ (2005, p183) and that providing the young person is able to acknowledge the harm they have caused and feels obliged to do something to remedy this, community reparation is sufficient when the victim is unwilling to engage or the offence is victimless. The types of restorative processes available will depend on the YOT you are working in.

One of the most important things to bear in mind in restorative justice work is how emotive bringing together victim and offender can be. You need to prepare the young person very well for any meeting and support them in what may be a very challenging, intimidating and anxiety-provoking event. The victim needs to be equally well briefed and supported if the meeting is to be successful. Chapter 8 will look at working with victims in more detail.

Review

Within youth justice a framework for review is provided, or even prescribed by, National Standards and the *Key elements of effective practice* (KEEP). The purpose of review is to identify if an intervention has achieved what it set out to do, to assess the progress a young person is making and to identify additional aspects of the intervention that still need to be delivered in order for it to be effective. Supervision plans are required to be reviewed every 12 weeks or any time there has been significant change in a young person’s circumstances. The review process should be an opportunity for the young person to provide feedback on how the intervention programme is working for them and to identify any problems or difficulties they may be experiencing with it, and as a result of a review it may be necessary to make changes. If cases are not reviewed an intervention may be inappropriate, ineffectual or even damaging to a young person as well as cost-ineffective.

Thinking back to the SMART objectives, the review process should consider if each objective set has been achieved and if not, the reasons for this, such as a particular group work programme not running. During the review you should consider the positive successes achieved as well as the difficulties or areas where things have not gone to plan. These may be down to the young person, to you or to external factors. The review process may be carried out between you and the young person, or it may be chaired by your manager with the young person’s parent/carer also present. Asset must also be looked at and possibly updated as a result of this. Depending on the length of the programme of intervention, there may be a number of reviews over the course of your involvement with a young person. The YJB (2003a) stresses the importance of the final review as ‘very important’; and continues:

Cases should be closed in a positive way. It is a chance for young people to express their views on the work that has been done, and for successes, even small ones, to be celebrated and encouraged for continuation in the future. Remember that re-offending does not automatically mean that an intervention has been a failure. (2003a, p87)

Endings

As a social worker involved in youth justice you will inevitably experience the ending of your professional relationship with young people you have worked closely with. If you are involved in assessing a young person for a pre-sentence report, the result of their sentence may mean that they do not need allocating within the YOT, such as in a conditional discharge, or they may be allocated to another YOT worker. An ending can be a positive experience, with the completion of the court order they were sentenced to. This may be early – you may be able to take them back to court for the order to be discharged before it is due to end because they have worked hard and completed all aspects of the order, as outlined in the plan. It is less positive when the young person re-offends and receives another sentence, perhaps a custodial one, and this might be supervised by another member of your team. Other circumstances include a young person moving to another area who will then be supervised by a local YOT in the new area, or on turning 18 supervision is taken on by the probation service. Unexpected endings may occur which may be impossible to predict, even the death of a client. Whatever the reason for the closure, it is important that, where possible, the ending of the professional relationship is fully planned and prepared for.

Both social workers and young people may have invested a lot of energy, time, commitment and effort into a relationship, and its end may be viewed as a loss or a crisis, raising previous experiences of loss. Coulshed and Orme suggest a good model of ending as incorporating the following (2005, pp287–8):

- Clarification in the first meeting that contact will be time-limited.
- Using the experience of termination as a learning opportunity rather than a painful separating experience.
- Using a fixed time limit purposefully, using time as a therapeutic agent.
- Deciding on certain objectives to achieve in the ending phase.
- Beforehand, exploring a person's feelings about the end of a relationship.
- Introduce the new worker if there is to be one and talk about feelings of endings in the meeting.
- Help the person construct a helping network in the community.
- Explore your own feelings. Demonstrate that you will remember the person; have confidence in his or her ability to manage without you.
- In some contexts a ritual or ceremonial ending could mark the occasion.
- Write a closing record, together, if appropriate.

ACTIVITY 7.3

You have been working with Jermaine now for over a year. He has completed his 12-month supervision order and apart from a theft, for which he received a community punishment order, he has not committed any other offences. Think back to your assessment of Jermaine and the supervision plan that you completed. You are now carrying out the final review of the order. What factors would you want to address and how would you use this as part of the process of ending your relationship?

Evaluation

As mentioned earlier, reviewing your practice on a regular basis is crucially important in social work and prescribed by YJB guidance and National Standards for those practising in youth justice settings. Therefore, it could be argued that we are constantly and consistently evaluating our practice. Certainly, part of the review process is to consider how relevant, effective and cost-effective an intervention is in relation to an individual service user. Evaluation is more than this, though. It is also about being aware of how research can inform, enhance and complement your practice. Your degree course will instigate an approach that encourages you to be research-minded so that you are aware of studies that are relevant to the area you practise in as well as to develop your own research skills. You need to be competent in evaluating your own practice and able to make the necessary changes in order that you are constantly striving to progress it. You need to be confident that the work you are doing with young people is effective in relation to the stated aims and objectives.

Part of evaluation means obtaining feedback from those in receipt of the services you are providing, namely the young people and their families. The ways that this can be achieved within youth justice include the regular review process. It is your responsibility to ensure that all the young people and their parents are provided with the opportunity to give honest feedback during the intervention and after it, and that they know that their comments will be taken seriously. It may also be useful for YOTs to obtain feedback from other users of services, for instance the courts who might provide information on the quality of pre-sentence reports or bail supervision assessments. It is important to ensure that the process for providing feedback is open and transparent and that the mechanisms enable reliability.

Evaluation is a 'must do' part of the job that should not be ignored because you do not have the time or it is low on the list of priorities. As Thompson says:

Evaluation is a fundamental part of good practice, as it provides us with a platform from which to continue to improve. No matter how skilled, experienced or effective we are, there are, of course, always lessons to be learned, improvements to be made and benefits to be gained from evaluating our practice. (2005, p65)

Evaluation is therefore a tool you must be competent in using as part of your commitment to reflective practice, thus ensuring your positive growth and development as a practitioner.

In order to carry out its roles of monitoring the performance of the youth justice system and the promotion of effective practice, the YJB has developed an Effective Practice Quality Assurance framework (EPQA). This includes the *Key elements of effective practice* which cover the following areas:

- Assessment, planning interventions and supervision
- Final warning interventions
- Offending behaviour programmes
- Young people who sexually abuse
- Restorative justice
- Parenting
- Education, training and employment
- Remand management
- Mentoring
- Swift administration of justice
- Mental health
- Intensive supervision and surveillance programmes
- Substance misuse
- Resettlement
- Targeted neighbourhood intervention programmes

These documents outline features of effective youth justice services informed by the latest research and legislation. The main part of the EPQA is self-assessment, with YOTs required to undertake a process of self-evaluation, to 'underpin priority-setting, business-planning and ongoing improvement'. The YJB guidance for YOTs and secure establishments published in 2006 states the EPQA framework is designed to (YJB, 2006b, p3):

- Provide a consistent system for evaluating the evidence of effective practice across all youth justice services.
- Set performance improvement targets and prioritise improvement effort within youth justice services.
- Facilitate continuing improvement in the work undertaken by youth justice services.

The framework enables YOTs to provide the YJB with qualitative feedback relating to their performance, in addition to the quantitative data provided quarterly, assisting in the identification of areas of strength and weakness. Upon completing the self-audit, which is evidenced-based against given criteria, YOTs have to develop a plan detailing how low performance will be targeted and improved.

The guidance suggests that 'feedback shows that involving staff from all levels of the service in the quality assurance process provides the most robust and accurate assessment and reaps the greatest rewards. It ensures that all services understand how effective practice relates to them and so sign up to delivering the improvement plan' (YJB, 2006b, p3).

More information on this can be found at www.youth-justice-board.gov.uk/cgi-bin/MsmGo.exe?grab_id=460&page_id=3538944&query=epqa&hiword=epqa

Thus, as well as evaluating your own individual practice with young people, you will also be involved in the wider EPQA self-assessment process.

User perspectives

It is easy to focus on what academics and practitioners purport to be effective practice with young people or offenders or both; there is much less research engaging with the views of those receiving services within youth justice and social work settings. However, some studies have provided such findings (Hill, 1999; de Winter and Noom, 2003) where young people have been asked what they value in relationships with social workers. They suggest that being listened to, being actively involved in decision-making, confidentiality, privacy and communication that does not stress power differentials are all important (Hill, 1999). Hill adds that we should remember that we are working with children with problems rather than problem children. The key characteristics young people look for in a social worker include (1999, p141):

- A genuine willingness to understand the young person's perspective and to convey empathy.
- Reliability (keeping promises, being available, punctuality).
- Taking action.
- Respecting confidences.

Given that you will often be working with young people for whom relationships have broken down, creating a trusting environment where there is room for development is crucial (de Winter and Noom, 2003). It is also necessary to sustain support even when the young person makes mistakes. Research (Barry, 2000; Hill, 1999; de Winter, 2003) suggests that dialogue and a participatory approach, where you and the young person identify the main problems, look for causes and solutions and assess development, will yield the most positive outcomes. This ties in with the importance of establishing, harnessing and working with a young person's positive (protective) factors rather than just the problematic areas of their life.

C H A P T E R S U M M A R Y

This chapter has looked at the importance of building a relationship with young people, focusing on issues such as the initial contact, working within a welfare approach and working with difference. We have also looked at the process of working with young people, commencing with planning – something that should be done in conjunction with the young person, using a strengths-based approach that acknowledges their positive points and protective factors. Various types of interventions have been considered within the context of effective practice, such as the traditional casework approach, and recent changes such as restorative justice. We have emphasised the essential component of reviewing practice, the significance of endings and the fundamental concept of evaluation. Finally, we have considered the young people's perspective and what they want from their involvement with social workers. Reading this chapter should have helped you to gain an understanding of some of the complexities and dilemmas in working with young people in youth justice.

FURTHER
READING

Trotter, C (2006) *Working with involuntary clients: A guide to practice (2nd edn)*. London: Sage.

This book outlines a range of approaches for working with difficult and reluctant clients including problem-solving and pro-social modelling.

Thompson, N (2006) *People problems*. Basingstoke: Palgrave Macmillan.

This text provides a number of strategies or tools for dealing with a range of problems encountered in social work such as objective setting, building confidence and giving feedback.

Crawford, A and Newburn T (2003) *Youth offending and restorative justice: Implementing reforms in youth justice*. Cullompton: Willan.

Provides an exploration of the introduction of restorative justice into the youth justice system and the implementation of the referral order. It examines the difficulties of trying to marry principles of restorative justice into the UK's existing adversarial youth justice system.

Chapter 8

Working with others

Sally Angus

A C H I E V I N G A S O C I A L W O R K D E G R E E

This chapter will help you begin to meet the following National Occupational Standards

Key Role 1: Prepare for, and work with individuals, families, carers, groups and communities to assess their needs and circumstances

- Prepare for social work contact and involvement.
- Work with individuals, families, carers, groups and communities to help them make informed decisions.
- Assess needs and options to recommend a course of action.

Key Role 2: Plan, carry out, review and evaluate social work practice, with individuals, families, carers, groups, communities and other professionals

- Interact with individuals, families, carers, groups and communities to achieve change and development and to improve life opportunities.
- Support the development of networks to meet assessed needs and planned outcomes.
- Address behaviour which presents a risk to individuals, families, carers, groups and communities.

Key Role 3: Support individuals to represent their needs, views and circumstances

- Prepare for, and participate in decision making forums.

Key Role 4: Manage risk to individuals, families, carers, groups, communities, self and colleagues

- Assess and manage risks to individuals, families, carers, groups and communities.

Key Role 5: Manage and be accountable, with supervision and support, for your own social work practice within your organisation

- Manage, present and share records and reports.
- Work within multi-disciplinary and multi-organisational teams, networks and systems.

It will also introduce you to the following academic standards as set out in the social work subject benchmark statement:

3.1.1 Social work services and service users

- The social processes (associated with, for example, poverty, unemployment, poor health, disablement, lack of education and other sources of disadvantage) that lead to marginalisation, isolation and exclusion and their impact on the demand for social work services.

3.1.2 The service delivery context

- The significance of legislative and legal frameworks and service delivery standards (including the nature of legal authority, the application of legislation in practice, statutory accountability and tensions between statute, policy and practice).

3.1.3 Values and ethics

- Aspects of philosophical ethics relevant to the understanding and resolution of value dilemmas and conflicts in both inter-personal and professional contexts.

3.1.4 Social work theory

- The relevance of sociological perspectives to understanding societal and structural influences on human behaviour at individual, group and community levels.
- The relevance of psychological and physiological perspectives to understanding individual and social development and functioning.

- Social science theories explaining group and organisational behaviour, adaptation and change.

3.2.2 Problem-solving skills

- Plan a sequence of actions to achieve specified objectives.
- Assess human situations, taking into account a variety of factors (including the view of participants, theoretical concepts, research evidence, legislation and organisational policies and procedures).
- Consider specific factors relevant to social work practice (such as risk, rights, cultural differences and linguistic sensitivities, responsibilities to protect vulnerable individuals and legal obligations).

3.2.2.4 Intervention and evaluation

- Undertake practice in a manner that promotes the well-being and protects the safety of all parties.

3.2.3 Communication skills

- Make effective contact with individuals and organisations for a range of objectives, by verbal, paper based and electronic means.
- Communicate effectively across potential barriers resulting from differences (for example, in culture, language and age).

3.2.4 Skills in working with others

- Act co-operatively with others, liaising and negotiating across differences such as organisational and professional boundaries and differences of identity or language.

Introduction

In Chapter 5 we looked at the role of the social worker working as part of a multi-agency youth offending team. The chapter focused on the specific roles of each professional making up the youth justice team. This chapter will look at how social workers in a Youth Offending Team (YOT) work with other people who are involved in the young person's life. Other people involved with a young person include those directly involved; not only parent(s), carers and guardians, but also people indirectly involved such as volunteers working with the Youth Offending Team or the crime victim.

First we consider the role of the social worker working with the parent(s), carers and guardians and the importance of working in partnership with them, but in a way that does not exclude the young person. Following this, we focus on the social work role with victims who have experienced crime perpetrated by the young person, how social workers work with victims, and consider specific skills required to undertake this role. Finally we examine the role of the volunteer community Youth Offender Panel member and how social workers can work effectively with this particular group. Working alongside volunteers in youth justice is not a new concept, but nevertheless brings with it issues of roles and responsibilities.

Working with parents and carers

Social work practice involves working not only directly with a service user, but also with their family, guardian and/or carer. This is the case for all social work practice whether working with adults or children and families as well as youth justice. Working with parents and carers remains a central tenet of New Labour's youth justice system and is one of its six key objectives. Despite considerable criticism of what was considered the criminalising of parents from some sections of the media and youth justice practice, Labour were determined to continue along the path of confronting the parenting deficit (Muncie, 1999).

'Reinforcing the responsibilities of parents' (YJB, 2006c) is based upon the premise that there is a strong correlation between inadequate parenting and youth offending. The Home Office drew upon research conducted by Graham and Bowling (1995) which revealed that almost half of young people with moderate or low levels of parental supervision had committed a criminal offence.

As a social worker working in the YOT there are three ways of working with parents:

- 1 *Voluntarily* – many parents want and may even ask for support. YOTs must work with parents on a voluntary basis.
- 2 *Voluntarily with a parenting contract* – if a more formal approach is useful or the parents are unwilling to co-operate, YOTs can suggest a parenting contract. Refusing to enter into a contract can be used as evidence to support an application for an order and may persuade a reluctant parent to engage.
- 3 *Parenting order* – if the parent is unwilling to co-operate, the YOT can apply for, or recommend, a Parenting Order. (Home Office/YJB/DCA, 2004).

ACTIVITY 8.1

Consider for the moment the term 'parent'. How might you define a parent?

Defining 'parent'

You will probably find that definitions and understanding of the term 'parent' are different across professions and cultures. Certainly this issue was found to be somewhat problematic in the evaluation of the pilot YOTs where researchers found that YOT staff tended to think in rather narrow terms of 'natural' parents (Holdaway et al., 2001, p103). In addition to the subjective view of practitioners, the legislation can also appear unclear. A parenting order can be made via Sections 443 and 444 of the Education Act 1996. Here the definition of parent is virtually the same as the Children Act 1989 which is 'those with parental responsibility or care of the child' (2001, p103). Persons with 'parental responsibility' can include people other than birth parents. However if the order is made via the criminal route then the definition of 'parent' under Section 1 of the Family Law Reform Act 1987 is applied. Here the parent is defined as 'mother and father whether married to each other or not at the time of the child's birth' (2001, p103).

While the parent/guardian/carer is legally responsible in the eyes of the law, the family is equally important in the young person's life. Britain is very multicultural and while the mother and/or father might be legally responsible for the young person, it may be that the young person's day-to-day living arrangements are the responsibility of a relative or close family member. This is the case for some African and West Indian families and may well apply to other cultures as well. Alongside this, it is important to acknowledge and understand the plurality of family constructs. As Pickburn et al. point out, the 'combination of family structures are almost limitless' (2005, p198). Consideration needs to be given to diversity in terms of faith, class, race, sexuality, absent parents, culture, gender and, as

advances in medicine and science continue, non-biological parents (2005, p198). For the purposes of this chapter we will use the term 'parent' but ask that you consider the term 'parent' in the wider sense to include guardian, carer or other adult in the young person's life who may have legal responsibility for them.

So let us look in more detail at how you might work directly with parents and carers.

Working voluntarily with parents

All work undertaken with young people will necessitate some contact with the young person's parent, simply because they are under the age of 18. As the parent they are the 'primary agents of care and socialisation' (Crawford and Newburn, 2003, p157) and have a significant role to play in the young person's life. It is essential to work with parents from the onset, involving them in a way that provides a framework of support, empathy and choice.

One area of work where that will require additional involvement with the parent(s) is when young people receive a referral order, a court order requiring them to attend a Youth Offender Panel. This will entail preparing the young person and parent by explaining the process of the panel and the role of the community panel members. It may seem a daunting process for all involved, but it is an opportunity for the parent to be involved in a process they can really contribute to, allowing them to take an appropriate level of responsibility in preventing further offending and help manage young people's future behaviour (Crawford and Newman, 2003, p157).

Working voluntarily with a Parenting contract

Parenting contract

The Anti-Social Behaviour Act 2003 introduced the concept of parenting contracts. They are voluntary, although formal, written agreements between parents of young offenders and YOT practitioners. The contract consists of two elements: 1) a statement by the parent to say that they agree to comply with the components of the contract for a specified period; and 2) a statement by the YOT practitioner stating they will agree to provide support to the parent 'for the purpose of complying with the contract' (Home Office/YJB/DCA, 2004).

The YOT social worker, in drawing up the contract, would include the following:

- Consultation with other agencies working with the young person to establish how the contract will fit with any existing interventions.
- Consideration as to whether another agency should be involved.
- When meeting with the parent for the first time, provision of information on the contract and what their involvement will be.
- Involvement of the young person in the process, subject to maturity, age and understanding.
- Explanation of the dedicated worker role, setting out how parents will be supported.

While parenting contracts are voluntary, refusal to co-operate could have implications. If, despite stringent efforts to engage parents, they fail to co-operate in the best interests of their child, their decision may be taken into consideration by the courts when deciding whether to issue a parenting order (Home Office/YJB/DCA, 2004).

Parenting orders

Parenting orders were introduced in the Crime and Disorder Act 1998, but extended by the Anti-Social Behaviour Act 2003 and the Criminal Justice Act 2003. This was done to allow the order to be made at an earlier stage. The idea is to involve parents earlier in order to help them to prevent their 'child's offending or anti-social behaviour to become entrenched and leading on to more serious problems' (Home Office/YJB/DCA, 2004, section 2.11). A parenting order is available in any proceedings where the child has been convicted of a criminal offence and the length of the order may range from three to 12 months. A parenting order can also be made when a child has been made subject of a child safety order, sex offender order, an anti-social behaviour order or when parents themselves have been convicted for failing to ensure their child's attendance at school or failure to attend a Youth Offender Panel (Pickburn et al., 2005).

YOTs are now able to apply to magistrates' courts under the Anti-Social Behaviour Act 2003 for 'free-standing' parenting orders without the need for the young person to appear in court (Home Office/YJB/DCA, 2004, section 2.11). The order would require a criminal standard of proof and would only be issued by the Youth Court when the court considers that it might contribute to the prevention of offending or anti-social behaviour by the young person (Pickburn et al., 2005). However, it is unlikely that you would apply for such an order unless, despite repeated attempts to work with the parent(s), they failed to engage with the YOT. The Criminal Justice Act 2003 made parenting orders available when a referral order is made or when a Youth Offender Panel refers a parent back to court for failing to attend panel meetings.

Parenting orders, while compulsory, are intended to support and give guidance to parents, focusing specifically on their parenting skills. In the Audit Commission report *Misspent youth* (1996), one of the key recommendations was the provision of support and assistance to develop parents' skills to prevent youth offending. The order will require parents to attend guidance sessions or counselling, which means they would be required to attend no more than once a week, for up to a period of three months. The order may also include additional requirements specific to the individual case. The order is likely to refer parents to a parenting programme.

Parenting programmes

Once parents have received a parenting order, then a programme of activities is devised in order to assist them in addressing their child's offending behaviour as well as developing their own parenting skills. While parenting programmes are part of the core work of a YOT, some YOTs have chosen to recruit external agencies such as Parentline Plus to deliver programmes, which should be delivered 'in a spirit of partnership' (Haines and Drakeford, 1998, p153) where YOT practitioners are working with parents in a task-centred way, rather than a prescriptive one.

This area of work is relatively new to youth justice and practitioners have struggled with the requirement to challenge parents over their competence (Burnett and Appleton, 2004). In fact Burnett and Appleton's research of a parenting programme in Oxfordshire found that practitioners would have benefited from further guidance in working with parents, particularly around the area of non-attendance. When working with parents, you need to consider the young person's offending behaviour while having an awareness of difficulties that parents might be experiencing that are quite separate from their relationship with their child. This might include issues such as domestic violence, mental health and personal welfare problems. As mentioned earlier, you need to consider the diversification of parenting styles found within multicultural Britain (Holdaway et al., 2001, p104). You will also need to have experience of, or develop skills in, working with and facilitating groups in a way that is 'welcoming and supportive, showing empathy with difficult and different situations' (2001, p103).

What do parenting programmes involve?

There are two main elements to the parenting programmes (Home Office/YJB/DCA, 2004, section 2.9(i)):

- 1 The first is a parenting programme designed to meet the individual needs of parents so as to help them address their child's misbehaviour. This is not a punishment, but a positive way of bolstering parental responsibility and helping parents develop their skills so they can respond more effectively to their child's needs.*
- 2 The second element specifies particular ways in which parents are required to exercise control over their child's behaviour to address particular factors associated with offending or anti-social behaviour.*

RESEARCH SUMMARY

The Youth Justice Board (YJB) funded the development of 42 parenting projects across England. These were set up by YOTs in partnership with other agencies from the voluntary and statutory sectors. The YJB also commissioned a three-year national evaluation of the effectiveness of the parenting programmes which commenced in 1999. This evaluation identified some positive changes in parenting skills, including:

- Improved communication between parents and children;*
- Better parental supervision and monitoring of young people's activities;*
- Reduced parent/child conflict and better approaches to handling conflict when it arose;*
- Better relationships, including more praise and approval of their child, and less criticism and loss of temper;*
- Parents feeling more able to influence young people's behaviour;*
- Parents feeling better equipped to fulfil their parenting responsibilities.*

In terms of reducing offending behaviour by young people, the research found that significant progress had been made. One year before the parents were involved in the projects, 89 per cent of their children had been convicted of a crime compared to just over 61 per

RESEARCH SUMMARY continued

cent in the year after the parents had completed the programme. In conclusion the report says: 'The study indicates that despite the controversy that surrounded the introduction of Parenting Orders, there does seem to be a role for them. They may provide a powerful way to reach vulnerable and needy parents who might otherwise never attend a parenting support service' (Youth Justice Board, 2006c).

Assessment processes in working with parents

Like any other intervention in youth justice practice the assessment process is 'critical to the success of parenting interventions' (YJB, 2002b, p7). It is crucial to work in partnership with parents because success in addressing young people's behaviour is only achievable where parents reinforce key messages at home. Where this occurs, you should begin to see the fruits of your labour and identify tangible improvements in young people's attitudes to crime and its consequences. Ghate and Ramella (2002) identify two stages in the assessment process. Stage one is the basic level of assessment which should be used to identify whether there is a need to offer parental support and be based on the premise that 'all parents may potentially benefit from parenting support' (2002, p12).

If you recall in Chapter 6 we discussed the various components of the Asset assessment tool which included the 'family and relationships' dimensions. Where this stage of assessment reveals that aspects of parenting are likely to be playing a significant role in the young person's behaviour you might usefully decide to undertake a more detailed assessment. This second stage would involve a full assessment to identify parents' needs and to ascertain how these can be met. Usually the parenting co-ordinator within the YOT would carry out this assessment and it may well be the case that this person effectively co-works with the designated person working with the young person.

According to Ghate and Ramella (2002, p11), the purpose of such an assessment is to:

- Identify risks and protective factors in parenting, in areas such as youth offending, non-school attendance and anti-social behaviour;
- Record evidence of parenting risk factors and protective factors.
- Analyse information gathered.
- Provide services to meet identified need(s) and/or make referrals to appropriate agencies.
- Provide relevant and appropriate information for magistrates in report form when required.
- Build a positive relationship with parent(s)/family.

There are a number of key factors that you should consider when undertaking an assessment involving parents/carers.

- Assessment is a continuing process, not an event.
- It should lead to and inform an action plan.

- It should be flexible in order to take account of a wide range of individual needs.
- It involves assessing parents'/carers' circumstances, identifying any possible reasons why parents/carers may find it difficult to participate in programmes (for example, issues of mental and physical health, literacy skills, personal relationships and employment).
- Assessment should lead to referral to other agencies where there is an identified need for specialist services.
- It should address the needs of all parents/carers, whether resident or non-resident, including foster carers and grandparents.
- It should inform parents subject to a parenting order of their legal rights and responsibilities in relation to the order.
- Assessment clarifies expectations, and clearly demonstrates what needs to be achieved and how this is to be measured.
- It should be linked to the young person's Asset assessment (YJB, 2002b).

ACTIVITY 8.2

Imagine you are working with a young person on a supervision order. Upon allocation of the case, you invite the parent to your first meeting with the young person and they do not attend. The young person tells you that they cannot get the time off work. Despite your attempts to contact them, you do not manage to speak to them. What would you do next?

National Standards make it very clear that, in relation to parental participation, 'steps should be taken to explore ways of supporting them to attend' (YJB, 2004b, p 2.8). In addition National Standards require you to make initial contact with parents 'before the end of the next working day following the court hearing' (YJB, 2004b, p 8.39). In cases of difficulty, you need to inform your manager of the situation and record all attempts to contact the parent. The nature of the order means the young person has continued to offend and/or the nature of the offending behaviour is serious. Therefore it is important that you make urgent contact with the parent. You will need to establish what hours the parents work and time they return home. If this is unsuccessful then compulsion is an option. The parent(s) need to understand the importance of their involvement.

This situation is a dilemma for you as the temptation is to quiz the young person about their parent's lifestyle in order to try and understand why there is resistance. There could be a whole host of reasons for their reluctance to meet with you, ranging from embarrassment, lack of understanding of the seriousness of the situation, cultural issues or something as simple as lack of parental literacy in English.

Working with victims

In the last two decades the victim of crime has travelled from the periphery of the criminal justice system to (virtual) centre stage. Evidence of this can be found in both the Crime and Disorder Act 1998 and the Youth Justice and Criminal Evidence Act 1999. This legislation is

underpinned by restorative justice principles of responsibility, reparation and reintegration and it is the first time in English law that restorative justice has been part of the criminal justice system.

While working with victims is not new to the criminal justice system (the probation service has been working in this area for some time), working with victims in the youth justice system is. Commentators have suggested that this is one of the greatest challenges to the philosophy and cultural ideology of youth justice work (Bailey and Williams, 2000; Crawford and Newburn, 2003; Holdaway et al., 2001): 'The unequivocal adoption of a victim-focused approach represents one of the most important and far reaching cultural changes required by the Crime and Disorder Act 1998' (Holdaway et al. 2001, p36).

So how are victims involved in the criminal justice system? There are a number of ways, including a key component of the youth justice system, restorative justice. If you recall, in Chapters 3 and 7 we discussed restorative justice and how the principles of restorative justice, which are responsibility, reparation and reintegration, underpin youth justice legislation.

Victims and restorative justice

YOT practitioners are expected to apply the principles of restorative justice in all work with victims. Interestingly, the YJB appears committed to the philosophy of restorative justice: 'Unlike other interventions within youth justice, the prevention of offending is not the main aim of restorative justice. The repair of harm, including harm to relationships, is what matters most' (YJB, 2003d, p7).

Restorative justice effectively provides a voice for victims in criminal justice processes. Up until the mid-nineteenth century, victims of criminal offences were responsible for taking 'their' cases to court. This changed when the state appropriated the responsibility for prosecuting offenders, a reform designed to protect victims from retribution and introduce objectivity into decision-making regarding prosecutions. While there were clear benefits for victims as a result of these changes, it has been argued that their 'conflict' had been stolen by the state – the victim had no contact with the offender, had no opportunity to say how the crime had affected them and was reduced to witness rather than victim (Christie, 1977). Restorative justice provides the victim with the opportunity to re-engage with the justice system and have a voice in the process.

Code of practice for victims

Another and very recent way of involving victims in the criminal justice system is through the code of practice for victims (Home Office, 2005a). This was introduced in April 2006. The code effectively governs the services of a number of criminal justice agencies, including YOTs, to victims and witnesses of crime, ensuring a minimum level of service to victims in England and Wales. The code does not provide 'rights' as such for victims, so there is no legal redress if the code is breached. Victims and witnesses would need to pursue any complaints they might have about the services they receive through the linked ombudsman service.

Some categories of witnesses are entitled to special treatment, including 'vulnerable' victims. Vulnerable victims are defined as such under the Youth Justice and Criminal Evidence Act 1999 and include all victims under the age of 17 years. The code states that Youth Offending Teams are 'required to take account of victims' needs' (Home Office, 2005a, p23):

If it decides to make contact with victims, the YOT must explain its role fully and clearly and allow victims to make informed choices about whether they want any involvement and if so, the nature of that involvement. The involvement of victims must always be voluntary; victims must not be asked to do anything which is primarily for the benefit of the offender. (Section 11.4)

The code also requires YOTs to record the reasons for decisions not to allow victims to participate in any restorative intervention. This is an important point, because although the government is very committed to involving victims in the youth justice system, victims do not have any legal right to be involved. For example, the Youth Justice and Criminal Evidence Act 1999 states quite clearly that victims *may* attend a Youth Offender Panel. The decision is at the discretion of the YOT practitioner, based on a number of considerations such as suitability for restorative justice and health and safety reasons, more of which we will discuss later in the chapter.

Victim personal statements

Victim personal statements are yet another way victims might choose to engage in the criminal justice process. Victim personal statements were introduced in England and Wales in 2001, providing victims with the opportunity to explain the emotional, financial and other effects of a crime on them. Unlike such statements used in the United States, they can only be referred to if there is a guilty plea, or once a jury has returned a verdict (Goodey, 2005). The statement can be taken at the same time as the police officer takes the evidential statement. While this initiative provides an ideal opportunity for the victim to be heard, research suggests they are not widely used and in many areas across England and Wales both police and victims struggle to understand them (Home Office, 2004a).

Victims and Youth Offending Teams

Since their inception in 1998, Youth Offending Teams have struggled, to some degree, to embed work with victims of crime. One of the main concerns that youth justice practitioners have raised is about the possible conflict of interest if required to work with both the young person and the victim. Some practitioners feel that it is not possible to work with a young person and attempt to meet their needs if they also have to meet with the victim and hear from them about how the crime has affected them (Angus, 2001).

ACTIVITY 8.3

Take a couple of minutes to think about victims: what images come into your head? Are they adults or young people? Are they male or female?

Research has shown that there has been a significant rise in crimes against young people (Home Office, 2005c; Smith, 2003a; Victim Support, 2003). These crimes tend to

be perpetrated by other young people, often people known to the victim. So, in the field of youth justice, the likelihood is that the victims you have contact with will be young people. However, there will be some exceptions to this; where a young person has committed a burglary or some kind of car crime, then the victim will almost certainly be adult. An added twist to the victim/offender relationship in youth justice is the fact that the young person may well have committed a crime against a parent. These crimes are predominantly theft and criminal damage although they may include assault. This is a complex area for practitioners who will need to consider how to balance the needs of young people (who are of primary concern) against providing some level of support to parent victims, who may well be their primary carers.

There are very few agencies offering support to victims and the largest of these is Victim Support. This is a national organisation offering practical help and emotional support to all victims of crime, irrespective of whether it is reported to the police or not. Every area will have a local scheme and the police officer in the YOT will have contact details (www.victimsupport.org.uk).

National Standards and work with victims

National Standards provide the framework for work with victims of crime. National Standard 5 refers to restorative justice, work with victims of crime and community payback (YJB, 2004b, p28). Broadly the National Standard requires all YOT practitioners to work with victims in a professional and sensitive manner. This is about respecting their wishes and not coercing them into engaging in restorative justice processes. But perhaps most importantly, it is about recognising that to engage victims in the youth justice system should not be primarily for the benefit of the offender, but should also be beneficial for the victim.

The idea of working with victims might be particularly difficult if you have had little experience of working with this client group. However, experience of working with young people who offend shows that many have been victims of crime. So think about your work with the young person. How have they experienced being a victim? How did they feel?

Confidentiality and work with victims

National Standards (5.4, 5.5 and 5.6) make reference to the data held by YOTs about victims and offenders. Practitioners in the YOT, working with both the victim and the young person, will need to be mindful about what information to share and with whom. No details about the young person should be disclosed to the victim and vice versa. Any information about the victim that is held by the YOT should be destroyed once the victim has disengaged from any restorative activity.

National Standards general principles in victim contact work

There are five guiding principles in relation to work with victims (YJB, 2004b, p29):

- 1 The wishes of victims in relation to their involvement in restorative justice processes must be respected by YOT staff at all times.
- 2 The need of victims to feel safe.

- 3 Victims should be given sufficient information to enable them to make informed choices about whether, and at what level, they wish to be involved in restorative justice processes.
- 4 Restorative justice services offered will include victims being able to provide information about the effects of crime, and to receive information about the results of the intervention, apologies, direct and indirect reparation and mediation.
- 5 Before any direct contact between victim and young person takes place, a full risk assessment must be undertaken.

ACTIVITY 8.4

Think about working with victims. We have already mentioned one possible reason why some practitioners might struggle working with this particular group of service users. What factors might you need to consider before you begin to work with victims of crime?

You might have considered training to provide essential skills to work with victims. This has been a problem for many practitioners since the introduction of Youth Offending Teams (Home Office, 2004). Williams (2000) suggests that practitioners need to consider both the impact of crime upon victims and how to work directly with them.

Impact of crime

The impact of a crime upon a victim is complex, and additional reading may help you in gaining an understanding of victimisation. However, we will endeavour to cover some key points, which should assist you in work with young people.

Even though the victim and the offender may not engage in any form of restorative justice, it is important to consider the possible impact the young person's behaviour might have had on the victim. What research does tell us is that the severity of the crime does not necessarily determine the impact upon the victim. People's responses are individual and therefore unpredictable (Williams, 1999).

The experience of a crime victim is unique in the sense that the suffering caused involves an intentional act inflicted by one person on another. The personal nature of such intrusion is likely to have a profound effect on how crime victims perceive others (Reeves and Mulley, 2000, p126). Victims can present with a number of symptoms in the aftermath of crime, which can be broadly categorised under three main headings:

Physical

Apart from obvious physical injuries sustained during a violent crime, victims may also suffer from a range of physiological effects including:

- headaches
- nausea
- insomnia and lethargy.

Emotional and psychological

Victims present with an array of responses to victimisation including:

- feelings of disempowerment
- low self-esteem
- shock
- disbelief
- fear
- anger
- guilt
- self-blame
- revenge.

These are normal responses to an abnormal situation.

Behavioural change

Behavioural change can manifest itself in a number of ways:

- Avoidance of areas and situations that remind the victim of the crime.
- Moving house.
- Withdrawing from social contact.
- Dependency or increased dependency on drugs/alcohol.
- In extreme cases attempts to alter their appearance or behaviour.

Process of recovery

The process of recovery from a crime is not dissimilar to bereavement. There is an initial response of shock and denial, giving way to a period of depression and disorganisation. The victim may blame themselves in some way. For example, a victim of a burglary may blame themselves because they failed to secure a window or door. This feeling of self-blame can often lead to low self-esteem. The victim may move on to a stage of reconstruction and acceptance, acknowledging the crime and realising they cannot turn the clock back. There is a final stage of readjustment that brings with it an acceptance and a return of self-esteem and self-worth. However, the victim's process of recovery is to some extent determined by external factors, such as the response of the criminal justice system as well as that of friends and family.

It is important to take this into account if you are working with a victim in a restorative justice intervention. Attending a Youth Offender Panel may reawaken some of the feelings the victim experienced in the aftermath of the crime. It would be useful to have a Victim Support contact number or leaflet to offer to the victim. Even if they don't necessarily appear upset at the time, it may be of use later on. Research shows that a person's ability to recover from a crime is significantly improved when others recognise the significance of the event (Victim Support, 2002).

Youth Offender Panels, victims and social workpractice

As mentioned above, a young person receiving a referral order will be required to attend a Youth Offender Panel. Section 7 of the Youth Justice and Criminal Evidence Act 1999 states that victims *may* be invited to attend the panel, but this is at the discretion of the panel, which in turn is advised by the YOT practitioner. It is important at this point to say that research shows that victim attendance at panels is very low. In the evaluation of the referral order pilots only 13 per cent of victims who were eligible to take part in referral orders did so. This is unsurprising when 50 per cent were never contacted and invited to attend (Newburn et al., 2001). However, it is likely the police officer or dedicated victim worker (if the YOT has one) would have made the initial contact with the victim and will be in a position to advise on the appropriateness of the victim attending the panel. If the victim does wish to attend, it is unlikely that a YOT practitioner will meet with the victim until the day of the panel.

ACTIVITY 8.5

Kelly is 15 and has received a four month referral order for actual bodily harm (ABH). Kelly assaulted Lucy, a girl in her class at school. You are due to meet with Kelly and her mum to discuss the Youth Offender Panel which is due to take place next week. The police officer in the YOT has informed you that Lucy wishes to attend the panel with her mum. Kelly has told you previously that Lucy had been abusive to her at school and on one occasion even hit her. However in this most recent incident Lucy was abusive again and Kelly could not take any more and lashed out, which resulted in Lucy receiving a cut to her lip and bruising on her cheek. Kelly appears to show little remorse.

- *What issues do you need to discuss with Kelly and her mum prior to the panel?*
- *What do you need to do to ensure the panel runs smoothly?*

This is both a complex and a common problem facing practitioners. Often there is a history between young victims and young offenders. This may involve simply an exchange of words – name-calling – at one end of the scale, or escalate into violence at the other.

When meeting with Kelly and her mother it is essential that you alert them to the fact that Lucy and her mother will be attending. Given the nature of the offence and the circumstances leading up to the offence, it will be important to stress to Kelly that she must make every effort to remain calm at the panel. Explain to Kelly that she will be given an opportunity to say how and why she felt angry. Kelly's mother will also have a chance to speak and give her perspective on her daughter's behaviour.

In terms of the actual panel, there are a number of issues that may need active consideration, both in relation to the specific case study but also more generally when working with young people attending a panel where the victim is also due to attend.

- The reaction of both victim and young person when they meet. Do the victim and the young person know one another?
- Expectations of the victim. Are they realistic?
- Panel members' experience and knowledge in relation to victims of crime.

In order to overcome these potential problems it is important to plan. First, it is essential that the young person is informed that the victim will be attending. You will need to explain to them the process of the panel and what contribution the victim can make. You should also meet with the victim prior to the panel commencing. At this point it is important to clarify with the victim their expectations. You will need to point out that the panel is not a rerun of the court process. You will need to explain the process of the panel to victims and their specific role in advising the panel how the crime has impacted on them. You should also discuss with the panel members, especially the member who will be chairing the meeting, any issues or concerns they may have. You may need to advise the Panel Chair of the importance of establishing ground rules at the commencement of the panel. These should include the use of respectful language, allowing everyone the chance to speak without interruption, the need to respect confidentiality and the limitations of that confidentiality (YJB, 2001).

Working with volunteers

Volunteering in youth justice work is well established and based on many years of experience. The Youth Justice Board are keen to maintain volunteer involvement in the new youth justice system and many voluntary projects in youth justice are YJB funded. In its first annual report, the YJB stated: 'Voluntary organisations have a vital role to play by providing the energy, enthusiasm and expertise to help the statutory services fulfil their role and by providing preventative services. Volunteers from all parts of society can help give young people at risk a chance' (cited in Bailey and Williams, 2000, p52).

Mentoring

Volunteers work in a number of areas within youth justice including the role of mentor, which involves a one-to-one relationship between the young person and a supportive adult mentor. The aim of mentoring is to 'make constructive changes in the life and behaviour of the young person' (YJB, 2005, p6). The YJB (2005a, p6) identifies five essential elements required by an effective mentor:

- Active listening skills.
- Ability to establish and maintain a shared agenda.
- Time to develop trusting relationships.
- Ability to sustain a high level of contact with the young person and encourage positive interactions.
- Adequate initial training and ongoing support.

YOTs often 'buy in' this service from voluntary sector mentoring agencies. It is likely that YOT involvement with the mentor may be limited to that of a supporting role. For YOT practitioners it is important to maintain regular contact with the mentor in order to support both the mentor and the young person in developing the mentoring role.

Community panel members

The largest group of volunteers working in the youth justice system are community panel members. These are men and women recruited from the local community who sit on Youth Offender Panels. Panel members are the third component of the restorative justice triangle which underpins the youth justice system. At a Youth Offender Panel we have a young offender, a victim (or victim representation) and the panel member representing the community. While the role of the panel member is to represent the wider community, panel members are unable to perform this function holistically, but provide a community perspective according to their socio-economic position. Like volunteering generally in Britain, the average youth justice volunteer is female, middle-aged and middle-class (Newburn et al., 2001).

There are approximately 7,000 panel members in England and Wales, contributing to decision-making in over 30 per cent of youth court cases (Flanagan, 2005). On average, panel members attend and sit on panels between 20 and 40 times per year (Biermann and Moulton, 2003, p5).

Working relationship with panel members

While the Home Office is pleased with the success of Youth Offender Panels and the contribution that volunteers make, not everyone perceives volunteer contributions so positively. Home Office commissioned research into panel members found that generally YOTs were pleased with the contribution that the volunteers had made and that they appeared very committed to their role (Biermann and Moulton, 2003, p8). However the research also revealed that some panel members required more support than others and identified that additional training for both panel members and staff to support them would be helpful. Others, however, have raised a number of concerns suggesting that there is a significant difference between working with voluntary agencies and working with volunteers (Bailey and Williams, 2000, p51).

Crawford and Newburn suggest that the volunteer panel member/YOT practitioner role is one of the most 'radical aspects of Youth Offender Panels in which they seek to draw lay volunteers into the decision making process' (Crawford and Newburn, 2003, p142). This research revealed some difference of opinions in how panel members were perceived by YOT staff. When they were asked about their working relationship with panel members, 62 per cent of staff questioned felt the relationship was very good (2003, p144). However, YOT managers took a slightly different view saying that some members of staff were reluctant to work with volunteer panel members. One of the main concerns for practitioners was having to 'open up their practice to outsiders' (2003, p144) with panels being led and directed by unqualified people.

We know that over a third of all disposals from the Youth Courts are referral orders and given this situation YOT practitioners will inevitably be working with victims and volunteers at the Youth Offender Panel, these being the two areas of work most new to YOTs.

RESEARCH SUMMARY

In the evaluation of the referral order pilots, researchers identified three broad approaches that YOT practitioners applied to their role at a Youth Offender Panel; the Passive Supporter, the Team Player, and the Steerer. The choice of approach was determined by the degree to which the YOT practitioner 'sought to influence the course of Panels' (Newburn et al., 2001, pvi)

Your role at the panel

When attending a Youth Offender Panel you will need to consider your role carefully. It is a role unlike any other undertaken within a YOT. The Youth Offender Panel itself is unique in as much as there are two lay members of the panel with decision-making responsibilities working within a statutory framework. In some ways the three approaches identified by Newman et al. (2001) could potentially be applied to your practice during the course of a panel. Let us consider key action points under the three headings.

Passive supporter

- *Supporting the young person* – you are not there to legally represent young people in the same way that a solicitor might represent them at court. You would have explained the panel process to both young people and their parents, who are likely to attend either voluntarily or at the request of the court.
- *Supporting the panel members* – each YOT will have a team of panel members and it is likely that you will have the opportunity to meet and work with most of them. Good practice would suggest that when meeting with panel members beforehand, you should check their understanding of the process and provide them with opportunities to discuss any queries with you.

Team player

This role has the feel of a co-ordinator and facilitator combined. There are a number of key areas you will need to consider:

- *Venue* – most panels are held away from the YOT office, often in community centres or offices belonging to social services departments or schools. You will need to arrive at the venue in sufficient time to prepare rooms, particularly if the victim is expected to attend, and you may need an additional room for them to wait in.
- *Panel report* – copies of the report should be made available to panel members, young people and parents. Give reports out in sufficient time for panel members to read and be ready to answer any queries they may have. Likewise, allow sufficient time for the young people and parents to read through reports. Ideally they should see them prior to the panel, but sometimes this is not always possible.
- *Victim attendance* – if victims are to attend consider carefully the timing of their arrival. Ideally this should be slightly later than young people and their parents. It may be that victims attend with supporters. It is very important that you provide sufficient time to

explain the process of the panel and gain an understanding of their expectations. It would be helpful to have details of the victim support scheme local to the YOT area (all victim support schemes have leaflets), which you can pass to victims. If victims are due to attend, then it is important to alert panel members to this fact and answer any queries or concerns they may have.

- *Post panel* – once panels have finished it is appropriate to briefly discuss with the panel members any concerns they might have as a result of the process. It may be that panel members are fairly new, in which case a debrief of the process might be helpful, or a panel may have been particularly difficult. Again it is important that you give panel members time to discuss this.

Steerer

You may take on the role of steerer either because panel members are inexperienced or because panels lose their focus. The steering role is one that applies during the course of panels and may well include the following:

- *Panel focus* – the purpose of panels is to draw up a contract taking into account the needs of young people in the aftermath of crime. It is important that panels do not revert to the role of a court. The case has already been heard and while it is important for panels to have an understanding about how the young person was feeling and behaving during and after the crime, they are not about looking at evidence. Sometimes panel members steer towards the latter role and you will need to bring them back on track.
- *Legal status* – while it is the responsibility of Panel Chairs to explain the purpose and status of the panel, it is essential that young people and their parents are aware, when signing contracts, that these become legal documents with implications for young people if they are breached. If Panel Chairs do not make this clear, then you will need to remind them.
- *Victim attendance* – this may be a difficult issue even for very experienced panel members. As mentioned earlier, research showed that few victims choose to attend panels, so the panel members are probably unlikely to have attended a panel with a victim present. You may need to speak with panel members before panels commence, paying particular attention to the order of the proceedings and also to consider the potential risk factors and strategies to deal with situations where victims may become upset or even angry.

Clearly your role here is central to the success of panels, but needs to be carefully managed. It is about making use of your professional skill to facilitate effective communication between all parties attending panels. As Crawford and Newburn mention, the opportunity to participate in panels can ‘facilitate the “opening up” of otherwise potentially introspective professional cultures, which militate against greater public participation’ (Crawford and Newburn, 2003, p153).

C H A P T E R S U M M A R Y

In this chapter we have considered the implications for working within the mixed economy that comprises the youth justice system, with particular emphasis on working with volunteers, victims and family members. Youth justice practitioners' ability to manage these pseudo-professional interactions effectively is vital to increasing the likelihood of successful youth justice outcomes. We have discussed professional roles and responsibilities in relation to these individuals and looked at some of the potential issues to consider when working with them and discussed ways of maximising effective recovery. During the activities and discussion, we have exposed and clarified the importance of developing good working relationships with young people's parents and identified strategies to deal with situations where they appear reluctant to engage. Finally we have debated and considered best practice in working with volunteers in the youth justice system.

FURTHER
READING

Williams, B (ed) (2002) *Reparation and victim-focused social work*. London: Jessica Kingsley.

A useful book providing an insight into working with victims of crime, which will be helpful in both direct work with victims, and when considering the victim perspective in work with young people.

Dignan, J (2005) *Understanding victims and restorative justice*. Maidenhead: Open University Press.

A detailed overview of the role of the victim in restorative justice which will be particularly useful given the YJB focus on involving victims in the youth justice process.

www.parentlineplus.org.uk

A voluntary organisation offering support to anyone parenting a child.

www.homeoffice.gov.uk/crime-victims

Specific department within the Home Office dealing with victim matters.

www.youth-justice-board.gov.uk/WorkingwithVictims

Department within the YJB relating to victim matters.

www.victimsupport.org.uk

Website for the largest victim agency in the UK.

WEBSITES

Chapter 9

Looking forward

Paul Dugmore and Jane Pickford

A C H I E V I N G A S O C I A L W O R K D E G R E E

This chapter will help you begin to meet the following National Occupational Standards.

Key Role 6: Demonstrate professional competence in social work practice

- Review and update your own knowledge of legal, policy and procedural frameworks.

It will also introduce you to the following academic standards as set out in the social work subject benchmark statement:

3.1.5 The nature of social work practice

- The processes of reflection and evaluation, including familiarity with the range of approaches for evaluating welfare outcomes, and their significance for the development of practice and the practitioner.

3.2.2.1 Managing problem-solving activities

- Manage the processes of change.

3.2.5 Skills in personal and professional development

- Advance own learning and understanding with a degree of independence.
- Reflect on and modify own behaviour in the light of experience.
- Identify and keep under review own personal and professional boundaries.
- Manage uncertainty, change and stress in work situations.
- Understand and manage changing situations and respond in a flexible manner.
- Challenge unacceptable practices in a responsible manner.
- Take responsibility for own further and continuing acquisition of knowledge and skills.

Introduction

This chapter examines three key areas relating to your effective future practice as a youth justice professional: transferable skills; continuing professional development; and the possibilities for future legislation in the youth justice arena. As a youth justice practitioner you will become aware that laws and procedures are regularly subject to change. In order to face the challenges of change within your professional environment, you must keep abreast of contemporary policy debates, reports, reviews and proposals. Updating sessions and keeping your eye on professional journals and quality newspapers will assist you in keeping up to date with contemporary practice and future reforms. It is also vital that you continue to develop your skills as a practitioner and learn how some of the skills you have acquired can be transferred to other professional contexts.

This chapter will guide you in looking forward to achieving your full potential as a competent professional who is able to assimilate change and be prepared for future challenges.

Transferable skills

Hopefully, throughout this book and during the course of your professional training, you have come to recognise the vast range of skills that are required of you as a fully fledged competent social work practitioner. While we have considered these skills within the context of youth justice, most, if not all, of these skills will be applicable should you decide to move into another area of social work or an entirely different profession altogether. All your work will be within a multi-agency context so you will be used to working with a range of other professionals with different identities and philosophies from your own. In order to do this effectively you need to be able to link the knowledge you have acquired to your practice, particularly that of human behaviour and using research findings to influence your practice (Trevithick, 2005).

You should be reasonably, if not very, skilled at communicating with many different types of individuals from a range of backgrounds:

- Young people aged 10 to 19 of different gender, cultural and ethnic backgrounds, with disabilities, learning difficulties, behavioural problems, mental ill-health, and substance misuse problems. This is not an exhaustive list.
- Parents and carers from many different family compositions, foster carers, residential workers.
- Other professionals: police, social workers, health professionals, teachers and other education professionals, magistrates, judges, probation officers, prison officers, solicitors, barristers.

You will also be experienced in talking/presenting within a range of environments: young people's homes, courts, case conferences, young offender institutes, different offices. You will have experience of interviewing people and carrying out assessments, using a structured assessment tool, and writing up the assessment and subsequent reports for a range of audiences – such as the court. You will be able to make decisions based on risk and potential risk, some of which may be very difficult, and able to work to deadlines and under pressure, sometimes in crisis. You will be able to apply a number of theoretical approaches to your work with young people and their families.

All of these will be useful should you decide to move into another social work setting or out of the profession altogether. These are skills that you will continue to develop as every new situation you encounter will enable you to learn something new. It is important that you continue to approach your practice with an open mind and seek to supplement this with the acquisition of new knowledge. In such a fast-moving social care world and a youth justice system with philosophical conflicts, changes and inconsistencies, you must also hold on to the core social work values that we have discussed throughout this book such as respect for people, social justice, empowerment, anti-discriminatory and anti-oppressive practice, acceptance and partnership. Being part of a multi-agency YOT might make it easy for your professional identity to be subsumed into a generic YOT identity that takes a more justice-based, punitive approach to youth offending, rather than championing a welfare approach seeking to understand (not collude with) a young person's offending behaviour within the wider context of their life. Your role is to assess their

behaviour and plan appropriate intervention within a particular theoretical framework based on research evidence. Other professionals within the YOT will not have had this education and training and therefore the knowledge you possess is specific to your profession and needs to be central to all practice with young people. As well as knowledge of a range of social work theories and models of intervention, you have also acquired knowledge of different criminological theories which help to explain offending behaviour.

Social work often receives a bad press and you are likely to be subjected to negative opinions and perceptions of you and your profession from service users and other professionals. Being part of a registered profession and working within codes of practice should help to improve the standing of social work but you also need to have confidence and pride in your practice and abilities, and in those of your peers, and to challenge some of the stereotypes that exist about social workers. Thompson (2005) offers some useful strategies for dealing with negative attitudes towards social workers.

Continuing professional development (CPD)

Once you have qualified as a social worker, your learning will not stop; some would argue that this is where it really begins. You will be required to attend training in order to increase your knowledge and skills as you join a new team and take up a post as a social worker. Remember that part of the GSCC Code of Practice requires social workers to 'Be accountable for the quality of their work and take responsibility for maintaining and improving their knowledge and skills' (GSCC, 2002). This means that it is your responsibility as a professional, as well as that of your employer, to ensure that you are able to carry out the roles and responsibilities required of you in terms of being equipped with the necessary skills and knowledge.

As a qualified social worker it is extremely important that you are registered with the GSCC; this confirms that you are qualified and registered to practise as a social worker. Part of this professional registration requires that all social workers undertake five days of CPD each year. Without this you will not have your registration renewed. This CPD is widely interpreted and the GSCC provides examples on its website of how you might undertake CPD (www.gsc.org.uk). For example, you may wish to:

- Arrange to shadow the work of a colleague in a related team or profession.
- Negotiate protected time to research latest policy and good practice developments in your field of practice.
- Undertake a piece of research related to your practice.

The GSCC also has responsibility for overseeing the post-qualifying training of social workers and in 2007 a new post-qualifying framework will be introduced. If you are studying for a certificated post-qualifying award, these studies can also be used as evidence that you meet the post-registration training and learning requirements. From 2007 post-qualifying awards will be introduced allowing social workers to continue their education and training in a modular way. There will be three levels of awards, each one corresponding to a stage of professional and career development: the specialist award; the higher specialist award; and the advanced award.

There are five specialisms, none of which refer to youth justice specifically. However, one of these will cover children and young people, their families and carers. As the new framework has yet to be implemented, it is at this stage uncertain as to how it will look. However, it is anticipated that there will be consistency across some modules, such as a consolidation module that will make up part of the specialist award, which all social workers will need to complete before going on to complete more specific modules. It is envisaged that some specialist award providers will offer youth justice modules. The GSCC website will contain updated information and guidance on this as it becomes available.

The YJB has developed a National Qualifications Framework that provides a strategy for ensuring that the youth justice workforce is appropriately trained and qualified. Currently the focus has been on providing qualifications for those practitioners who do not already hold any professional qualification, and this has led to the introduction of a Foundation degree. However, the YJB has also indicated that higher level qualifications will be designed at a later stage to provide routes for continued learning. Again, how this will look remains to be seen but the YJB website will keep you updated; it is important for you to be aware of the full range of options open to you at post-qualifying level. You will not only be aware of current evidence-based, research-led, best practice but also be able to contribute to the development of such knowledge as a practitioner. You will further be equipped to reflect critically on your practice so that it retains a clear social work focus, and that young people are receiving a high-quality service that meets their need. If you are not finding your work sufficiently satisfying and rewarding, you should be able to identify an alternative challenge based on your existing knowledge and skills.

ACTIVITY 9.1

What transferable skills do you already have and which ones would you like to develop? Which type of CPD do you think might be useful for you once in practice?

Future youth justice legislation

In this section we consider the various proposals for youth justice practice that have been discussed by the Government over the last few years. It is noteworthy that academics and practitioners have been braced for these changes for a number of years; indeed we believed that legislation would follow soon after the consultation paper *Youth justice – The next steps* (Home Office, 2003d). However, new legislation is still awaited: despite the publication of a Green Paper *Youth matters* (Home Office 2005e) and a draft Youth Justice Bill which was published but not enacted in the 2004/05 session of Parliament, no new statute has emerged. Early in 2006 it was thought that measures covering the proposed radical shake-up of youth justice practice would be contained in the criminal justice reforms contained in the Police and Justice Bill 2006, but alas they were not.

The review of proposals below will enable you to be forewarned of the probable changes to youth justice practice that are arguably forthcoming. Keep your eyes on the quality newspapers, the Home Office and the Youth Justice Board's websites!

Youth justice – *The next steps* and *Every child matters*

The Green Paper *Every child matters* (Home Office, 2003a) outlined proposals for reforming children's services generally and led to the Children Act 2004 (see Chapter 4). Alongside this paper, the Government published a companion document, *Youth justice – The next steps* (Home Office, 2003d) a separate consultation paper covering proposed future reforms to the youth justice system. Though these have not been passed into legislation at the time of writing (summer 2006) it is useful to outline the major proposals. The paper made reference to nine key areas (see NACRO, 2003a):

- *The basic approach.* Though England and Wales has the lowest age of criminal responsibility, at 10 years, compared to other European countries (apart from Scotland, where the age is 8; however here all but approximately 10 per cent of the most serious offenders are dealt with by a social work panel – a Children's Hearing – and not the courts), the government does not propose to change this. This failure to increase the age of criminal responsibility is in direct opposition to the recommendations of the UN Committee on the Rights of the Child, the Committee on Human Rights and the stated view of many children's charities.
- *Pre-court diversion.* The government wishes to increase the use of diversionary schemes, and though there are no proposals to change the current reprimand and final warning system, there are calls for views about the possible expansion of referral order type measures, which ensure the greater participation of victims and the local community.
- *Sentencing structure and rationale.* Currently the sentencing of young people is dominated by three principles: the 'welfare principle' enshrined in the Children and Young Persons Act 1933; the principle of proportionality contained in the Criminal Justice Act 1991; and the aim of preventing offending, a main focus of the Crime and Disorder Act 1998. The government proposes to scrap the first two. It is envisaged (by NACRO, 2003a) that sentencers would also take into account issues such as vulnerability, public protection, optimum punishment, parental obligation, reparation and previous interventions – but that the principal aim of preventing offending will prevail. From a criminological standpoint, this would represent a move away from classicist notions of proportionality towards the positivist ideal of preventionism and sentences tailor-made to fit the criminal as opposed to the crime. The abandonment of the long-standing welfare principle is concerning and it seems to be contrary to the focus on promotion of the well-being of the child/young person evident in *Every child matters* and enshrined in the Children Act 2004.
- *Families and communities.* The government wishes to expand the use of the parenting order and other means of ensuring 'whole family' involvement in youth crime intervention, including the active encouragement of father participation and a focus on encouraging family group conferencing.
- *Policing, public order and the courts.* This includes strengthening enforcement of anti-social behaviour measures via the youth court; providing YOT/local authority reports for courts regarding remand/bail recommendations; and promoting an increased understanding by children and young people of court processes (with the development of a 'young defendant's pack' to help young people and their families understand proceedings). In

addition, specialist training is proposed for Crown Court judges. It is arguably not clear whether the latter measure will address the concerns expressed by the UN Committee on the Rights of the Child and the European Court in *Thompson and Venables* [1999] which regarded the Crown Court as essentially an adult court that was unsuitable for dealing with children and young defendants (see Chapter 1).

- *Remands*. This includes proposals for greater use of bail and non-custodial remands where possible and the expansion of ISSP bail packages to support this. An extension of the use of remand foster placements is recommended, as is the possibility of remand hostels for some upper age range youth offenders.
- *Community sentencing*. This area contains arguably the most radical proposal regarding the practice of youth justice in that it recommends the scrapping of nine current community sentences and their replacement with one generic sentence in the form of an expanded action plan order (APO). The proposed expanded APO could be ordered for a period of between 3 and 24 months and ideally would contain two or three interventions chosen from a 'comprehensive menu' of possible measures, including:
 - Fines
 - Reparation
 - Personal support from 'befrienders'
 - Drug and alcohol awareness
 - Anger management
 - Mentoring
 - Sessions on appropriate sexual behaviour
 - Reporting and supervision requirements
 - Victim–offender mediation
 - Family group conferencing
 - Attendance at junior activity/attendance centres.

These conditions might also include residence requirements – at the family home, through expanded foster placements, hostels or local authority accommodation. Mental health treatment might also be added if necessary.

It is also proposed that the referral order be expanded, including the possibility that a referral order might be allowed on a further conviction.

In order to assist implementation of these changes, there is a proposal that YOTs would be encouraged to make 'child behaviour contracts' with young people on court orders.

- *Intensive sentences and custody*. These proposals include plans to expand the use of ISSP as a high-tariff sentence and to utilise the principles of an ISSP (up to six months) as an option combined with custody in the form of a new 'intensive supervision or detention order' (ISDO) for serious and repeat offenders. This will give the court the option of

combining ISSP with a custodial disposal. However, alongside the strengthened community ISSP and the new ISDO detention with ISSP, under the proposals it appears (though it is not clear) that the DTO will still remain largely in its current form as a further option – but that the second part of the order spent in the community could be similar to and contain some of the conditions proposed in the new expanded action plan order (above). It is proposed that restrictions relating to this sentence for 12–14 year olds be removed, with a maximum for this age group of 12 months. Practitioners might be concerned about this latter proposal. Further, it was noted that detention could include open and semi-secure facilities. There is also a promise to address safeguarding procedures for females and vulnerable males in custody.

- *Staff and organisation.* Proposals in this area relate to examining the membership of YOTs, promoting further profession-specific training and investigating multi-agency links with YOTs (with a view to joined-up service provision outlined in the Children Act 2004 – see Chapter 4).

Overall, the focus of these proposals is on diversion, reducing remand and custodial detention (the latter with a fortified ISSP), a reduction in the amount of community disposal options (with a fortified APO), a further focus on reparation and a move away from the welfare and proportionality principles of sentencing. NACRO point to the possible complexity and the risk of expansionism being created at the custodial level, but welcome some of the diversionary measures proposed. However, 'How these measures are implemented would be crucial, with the outcome in some doubt. History is littered with legislation that has failed to be implemented in practice, or that has had outcomes contrary to those intended' (NACRO, 2003a, p7).

Youth justice 2004: A review of the reformed youth justice system

It is worth noting the comments of the Audit Commission's latest review of youth justice services (2004) as it could have some impact upon future government proposals. The Audit Commission's general review was favourable, largely indicating that the new system showed considerable improvements from the old system they reviewed in 1996 (*Misspent youth*). However, they commented upon five areas of youth justice services that still needed attention following the staged implementation of the radical reforms that flowed from the Crime and Disorder Act 1998 and the Youth Justice and Criminal Evidence Act 1999.

- 1 *A need to focus court work towards dealing with serious and persistent offenders.* The Commission recommended an extension of the use of diversionary practice for non-serious offenders and an extended use of the referral order – specifically the possibility of a three-month order for young people who have not appeared at court before, to be issued at the discretion of the Prosecution Service. Courts would then be freed up to deal with the most complex cases and provide regular reviews.
- 2 *A need to improve court procedures.* The Commission commented upon the lack of understanding of court practice experienced by young defendants and their guardians. In addition, magistrates need further specialised training and the progress of specific cases should be regularly reviewed, with encouragement or changes made to interventions, as appropriate.

- 3 *A need to make sentencing practice more cost-effective.* The Commission noted that custody is the most expensive yet least efficient sentence. The use of ISSPs should be extended.
- 4 *A necessity to address the wide-ranging needs of offenders.* The Commission recommended that young people's needs should be met by a holistic approach, including (a) increasing the frequency and quality of contact with supervising officers; (b) ensuring that young people are kept in/given education and training while undertaking sentencing requirements; (c) liaising with health (including mental health) services to ensure the well-being of the young person; and (d) ensuring accessible substance misuse support and accommodation provision.
- 5 *The need to prevent first-time offending.* The Commission noted that young people in custody often have a history of previous local authority or other service interventions. Planned and targeted early intervention is necessary, as is greater co-ordination between various services that deal with young people.

It can be seen that some of the Audit Commission's concerns (though not all) mirror a number of the proposals outlined in *Youth justice – The next steps*, above.

Youth matters

The Green Paper *Youth matters* (Home Office, 2005e) was published (largely following the proposals set out in the consultation paper *Every child matters*) and though it did not cover youth justice specifically, it addressed four aims in relation to youths in particular: (a) positive activities and empowerment; (b) encouraging young people to become involved in their communities (including as volunteers); (c) providing better information, advice and guidance for young people; and (d) providing better and more personalised services for young people with problems or who get into trouble.

It is the latter aim that relates to youth offending. The proposals put forward in order to achieve this aim include promoting a multi-agency, integrated approach to young people who find themselves in this category and in need of help. An integrated package of support should be actioned for each young person, with one lead, named professional as co-ordinator of the package. The government proposes to merge a range of existing programmes that currently focus on specific aspects of youth services and work through children's trusts in order to address the needs of young people using a holistic approach. The issues to be tackled in this holistic manner include teenage pregnancy, young people not receiving education or training, dealing with young people with drug or alcohol problems and dealing with youth crime – the latter to help fulfil the existing duty upon local authorities under Section 17 of the Crime and Disorder Act 1998.

Draft Youth Justice Bill 2005 (not enacted)

Though a youth justice bill was mentioned in the Queen's Speech for the 2004/05 session of Parliament, no formal bill arrived (despite a Draft Youth Justice Bill appearing on government websites). The bill was not mentioned in plans for the 2005/06 timetable, though it was speculated that youth justice measures might be contained within a bill entitled

Sentencing and Youth Justice at the end of 2005 or within the Police and Justice Bill released in January 2006. However this was not the case but it is expected that the Government still wishes to produce a stand-alone statute on youth justice. It is envisaged that the forthcoming bill will reflect measures proposed in the consultation paper *Youth justice – The next steps* (Home office, 2003d, outlined above).

The Draft Youth Justice Bill, which was not enacted, mainly proposed some of the measures that were outlined in the 2003 consultation paper, namely:

- To fix the primary purpose of youth sentencing as prevention of offending.
- To establish more effective community sentences with a simplified structure and a menu of measures from which courts can compile a suitable package for the individual with the key aim of rehabilitation.
- To develop the ISSP as a robust alternative to a custodial sentence where appropriate.
- To use DTOs when there is a need to remove the offender from the community.
- To place DTO trainees in open conditions, and allow temporary release with tagging, to improve integration of the offender back into their local community after release to prevent re-offending (www.commonleader.gov.uk).

In February 2006 the Home Office published its five-year strategy, *Protecting the public and reducing re-offending*. It restates its intention to replace nine existing community orders with a single community sentence for juveniles called a 'youth rehabilitation order'. We are currently (summer 2006) awaiting the publication of a draft bill to cover the proposals outlined for youth justice reform. As recommended earlier, you should monitor the YJB and Home Office websites for the emergence of draft legislation in this area of practice.

ACTIVITY 9.2

Outline the most important reforms that are likely to occur in youth justice. Which changes are likely to have the most significant impact on practice? Will the proposed measures lead to a re-orientation in youth justice theory?

C H A P T E R S U M M A R Y

In this chapter we have examined the skills you will develop as a youth justice practitioner and analysed their transferability to other professional contexts. We have also stressed the importance of continuing your professional development once *in situ* as a practitioner and outlined the various options in relation to that. Finally we have examined recent government proposals relating to potential changes to the youth justice system. Perhaps one of the things most evidenced throughout this book is what a fast-changing and evolving environment the youth justice system is, with frequent legislative and political reform: more than 50 bills to reform the criminal justice system have been introduced since Labour came to power in 1997. Even at the time of writing the criminal justice system is the subject of intense media spotlight. The *Guardian* (22 June 2006) reported that Tony Blair was warned by a leading academic expert, Professor Ian Loader, to 'think hard' before introducing any more 'headline-grabbing' law and order legislation,

urging the prime minister to be the 'voice of reason and restraint' rather than the 'uncritical cipher' of public anger on the issue. The impact such change can have on practitioners should not be underestimated and some of the skills you will need to develop in order to survive will be change management and resilience skills.

FURTHER
READING



In order to stay up to date in the three areas of skills, continuing development and legislation, the following sources will be useful:

Brown, K and Rutter, L (2006) *Critical thinking in social work*. Exeter: Learning Matters.

Useful guidance for social workers undertaking post-qualifying social work awards.

WEBSITES



www.youth-justice-board.gov.uk

Youth Justice Board's website. Provides up-to-date information on policy and legislative change as well as information on development and learning.

www.nacro.org.uk

National Association for Care and Resettlement. See especially their youth crime section for briefings on changes, legislation and research.

www.homeoffice.gov.uk

Home Office website for information about current and proposed legislation.

www.communitycare.co.uk

Community Care website for news and updates for social care professionals.

www.gsc.org.uk

The General Social Care Council website has information on the Code of Practice and the revised post-qualifying framework.

www.jsboard.co.uk

The Judicial Studies Board for legal information for justice practitioners.

www.commonleader.gov.uk

This provides information on the progress of legislation through parliament.

Conclusion

This book has sought to introduce you to social work practice within the field of youth justice by considering the different aspects of the youth justice system and the work undertaken by social workers in Youth Offending Teams. We have looked at social work practice by considering case studies of young people at differing stages of involvement in youth justice as a way of exploring some of the issues.

One of the themes running through this book is the fact that as a social worker practising in youth justice, you will encounter many practice dilemmas when working with young people involved in offending behaviour. In order to ensure that you approach these professionally, the importance of supervision and reflective practice as tools to deal with this complex area of practice have been discussed as well as the frameworks in place to ensure that practice is guided by firm ethical principles. We have tried to emphasise the importance of your practice being grounded in values that support, empower, respect, include and enable young people to make decisions, achieve and flourish, together with those values that challenge prejudice, injustice, stigma and inequality in society. All of these are enshrined in the Code of Practice for Social Care Workers and the National Occupational Standards, and are crucial if you are to become a well-rounded reflective practitioner.

The book has also introduced you to the conventional theoretical debates and highlighted the tensions between the justice and welfare philosophies of youth justice as well as an array of contemporary analyses of philosophical approaches and their applicability to contemporary practice. Your practice should now be grounded in criminological theory giving you an insight into the causational factors behind criminal behaviour. It is vital for youth justice practitioners to have some knowledge of mainstream criminological explanations of crime, because you will have to analyse causational triggers and risk factors relating to criminal behaviour with the young people you work with. Indeed, an analysis of these factors is necessary as part of the Asset assessment and is an integral part of pre-sentence reports. As well as being up-to-date with theoretical approaches to your work, it is essential that you are aware of the legislative and policy changes that impact on youth justice, and you should now be fully aware of how often such changes are implemented.

This book has focused on the multi-agency system that you will be a part of and emphasised the importance of your understanding all aspects of the large and complex system as well as respecting the many professional disciplines involved. We have aimed to help you to consider your role as a social worker within a team of practitioners who may have undertaken different training from you and, therefore, have divergent philosophies and attitudes towards offending young people.

Finally, we hope the book has enabled you to understand how the youth justice setting should assist you in meeting the key roles, by looking specifically at the skills and knowledge required by social workers in relation to the preparation, assessment, planning, intervention and reviewing of young people involved in criminal activity, and also working with their

families and victims. You will now be fully aware of the transferable skills and knowledge you should possess as a qualified social worker within the youth justice context and how these need to be continually developed, post-qualifying, in order for you to maintain and develop further competence. You will also appreciate that it is necessary to be able to respond to or positively challenge proposed reform as an effective and confident practitioner.

As this book has shown, working with young people involved in offending behaviour brings together many different aspects of social work practice. Primarily, we have encouraged you to gain an understanding of the legal and theoretical framework in which you will be practising and the areas of assessment, intervention and working with others within youth justice. We hope that this has enabled you to develop some sound skills and the knowledge required for good social work practice with young people who offend as a foundation for a long and rewarding social work career in youth justice. You will undoubtedly be qualifying and practising as a social worker in times of uncertainty and change but offering many opportunities for you as a professional and the young people you are working with. We wish you well as you begin your career as a social worker.

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