

Referral Order Policy

Effective Date: 2 August 2021

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Owner: YJ Service Manager

1. Introduction

- 1.1 This document provides guidance regarding the process of supervising Referral Orders within Nottinghamshire Youth Justice Service.
- 1.2 This guidance is based upon the [Youth Justice Board Referral Order Guidance](#) issued in October 2018.

2. At Court

- 2.1 When the Court are considering the making of a Referral Order and request a Pre-Sentence Report, it is the role of the Court Duty Officer to
 - a) record the details of the young person, including a contact phone number
 - b) record the details of the offences, including the dates and any basis of plea
 - c) explain to the young person and their parent/carer what has happened in Court and the next steps
 - d) obtain the young person and parent/carers' availability so that a panel can be booked as soon as possible.
- 2.2 When the Court have made a Referral Order, it is the role of the Court Duty Officer to
 - a) record the details of the young person, including a contact phone number
 - b) record the details of the offences, including the dates and any basis of plea
 - c) explain to the young person and their parent/carer what has happened in Court and the next steps
 - d) obtain the young person and parent/carers' availability for the initial Referral Order panel.

3. Custody Threshold PSRs

- 3.1 Where the Court are considering a custodial sentence, the PSR should present the Referral Order as 'a robust and credible sentencing option'. This should involve an intensive Referral Order contract.
- 3.2 An intensive Referral Order contract should involve a timetable of structured activity each week, reflective of the serious nature of the offence. (See the Scaled Approach.) These activities may include:
 - education, training or employment
 - victim awareness

- community reparation
- restorative processes (this could include, writing a letter of explanation or apology, shuttle mediation (messages passed between the child and victim(s), direct restorative interventions including a face to face meeting with the victim and/ or repair to damage caused during the offence¹⁰)
- work to address thinking and behaviour related to the child's offending
- family support, where appropriate
- interpersonal skills (work to support the factors which increase resilience and desistance)
- there should also be a curfew included, although under legislation this cannot be electronically monitored for a Referral Order

3.3 Whilst the onus is upon the young person to identify the changes he or she would like to make, in order for the young person to be motivated to engage with the contract, in the case of a custody threshold contract, a greater level of guidance by the Case Manager and Community Panel Member may be required in order to provide a credible alternative to custody.

4. The assessment

4.1 A home visit should take place with the young person and their parent/carers within 5 working days of sentence in order to begin the assessment and complete the induction documents.

4.2 The Asset Plus assessment should be completed and sent for gatekeeping two days prior to the Initial Panel.

4.3 The Referral Order report will be completed by the young person in conjunction with the Case Manager to be provided to the Community Panel Members two days before the Initial Panel. The Referral Order Report does not require gatekeeping as it is mainly the work of the young person. However, quality assurance will take place at a management level as part of the normal management QA process.

5. The initial panel meeting

5.1 The Initial Referral Order Panel should be led by two Community Panel Members with a Case Manager present in an advisory capacity. The panel may also be attended by a Restorative Justice Practitioner who will provide feedback from the victim where appropriate. There is also an opportunity for a victim to attend the initial panel. The panels will be arranged via Business Support.

5.2 The Case Manager will:

- Consider what form of panel would best meet the needs of the child. Face to face panels

are the 'norm' for all panels unless there are reasons for arranging the panel in a different way. Examples of circumstances when a virtual panel would be more appropriate to meet the needs of the child could be:

- If a neuro-diverse child would struggle with meeting face to face with strangers.
- If a child has experienced significant trauma which would be exacerbated in a face to face panel.
- If a child is highly likely to act aggressively which may place Panel Members at risk of harm.
- If a child does not return home from work until late in an evening and would then have to travel again to a venue.

Each situation is different and this is not an exhaustive list.

If a virtual panel seems the most appropriate method of conducting the panel, the Case Manager will discuss with the Team Manager (or deputy), who, if in agreement, will enter the decision onto Capita.

- Consider the time/day of the panel to meet the needs of the child and their family.
 - The meeting should not disrupt the school or workday of the child.
 - Consider the availability of the parent/carer in terms of their employment/other childcare responsibilities.
- Consider whether there are any specific needs in terms of venue. For example, are there gang sensitivities which would preclude them from going into certain areas?

Panel meetings will not take place in children's homes, including care homes.

- Consider whether the 'standard' fifteen minutes is long enough for the pre-panel discussion. For children with complex circumstances or serious offences, a longer time for discussion may be needed.
- Liaise with Business Support (referral.orders@nottsc.gov.uk) to arrange for the panel to take place within 20 working days of sentence and to share any needs for the type, time/day, number of Panel Members, pre-panel length and venue of the panel meeting along with who to invite to the meeting.
- Work with the child and their family to complete the panel report/review report and send to referral.orders@nottsc.gov.uk for distribution at least two days prior to the panel meeting. The Case Manager will only use first names in the report and not include any other identifiers, such as address or care home name.
- Discuss with the child and their supporting adult(s) how the panel meeting will work, including making them aware of arrangements for preventing the spread of Covid19.

5.3 Business Support will:

- Contact Panel Members once a month to request availability and share any difficulties in obtaining availability with the Volunteer Co-ordinator.
- In line with availability and location considerations, attempt to allocate panel meetings evenly between Panel Members. Two Panel Members will attend each panel unless there is a specific request for this to be reduced, which will be confirmed by a Team Manager.
- Where there is no specific need for time/day for a panel meeting, consider arranging the panel meeting at a time when Panel Members have greater availability or when Panel Members are less utilised.
- Book the panel meeting according to the type of panel. Virtual panel meetings will usually take place via Microsoft Teams and face to face panels will take place normally in NCC venues (youth centres, libraries, offices). Panel meetings should not take place at the home of the child, including care homes.

5.4 For face to face panels, the Case Manager will provide flip chart paper and marker pens for use during the meeting. For virtual panels, the Case Manager will either use the whiteboard or share screen option. It is the role of the Case Manager to complete the sheet with headings in advance of the Initial Panel Meeting. On one half of the sheet, the header should read 'help and support', whilst on the other half, the header should read 'making it right'. A line to score each goal should be drawn along the bottom of the whole sheet, marked with the numbers 1 to 10.

5.5 The Community Panel Members, Case Manager and Restorative Justice Practitioner, where attending, will arrive at the venue fifteen minutes prior to the beginning of the panel (or earlier if specifically requested) for discussion regarding the young person and their offending behaviour.

5.6 The panel values should be followed throughout the course of the panel. These are:

- Everybody has a right to speak and be heard.
- Everybody feels safe to express their thoughts and feelings honestly.
- Everybody feels valued if not necessarily agreed with.
- Everybody has the same opportunity to speak and be included regardless of role, age etc.

5.7 For face to face panels, when the panel is ready for the young person to enter the room, the panel members will go and greet the young person. It is important that no one is sat down when the young person and their parent/carer enter the room. This allows the young person and their parent/carer to feel equal in the space.

5.8 The main aim of the initial panel are:

- Engage the young person and their parent carer
- Identify strategies WITH the young person that will help and support them to not reoffend
- Identify strategies to help make it right by other people
- Agree and sign the contract to start the order

5.9 The panel will follow the format outlined below, unless it is deemed more effective for the young person or victim in attendance to vary the format.

- Check in circle
- Introduction
- Help and support
- Making it right
- Signing the contract
- Check out circle

5.10 The amount of community reparation to be included in a contract should consider the wishes of the victim but should primarily be proportionate to the seriousness of the offence. In Nottinghamshire, reparation is awarded in terms of sessions, which last between two and four hours; dependent upon the young person's individual needs.

5.11 The guidance below indicates the number of sessions which can be expected to be awarded:

Length of Order	YJB Guidance	Proposed	What this means in practice
3-4 months	3 - 9 hours	1-3 sessions	min 2 hours max 12 hours
5-7 months	10 - 19 hours	3-5 sessions	min 6 hours max 20 hours
8-9 months	20 – 29 hours	5-7 sessions	min 10 max 28hours
10-12 months	Minimum 30 hours	Max 10 session	min 20 max 40 hours

5.12 Further guidance regarding reparation can be found in the ['Guidelines for Reparation'](#) document on Sharepoint.

5.13 It is the role of the Community Panel Members to lead the panel and fill in the flip chart. It is the role of the Case Manager to provide expert guidance to the panel, particularly regarding interventions available. The Case Manager also completes the contract during the panel ready for the young person to sign.

5.14 Before the young person signs the contract it is important to:

- Read back the list of interventions to check the young person and their parent carer understand what they are agreeing to.
- Explain the legality of signing the contract, in particular the importance of attending appointments as instructed or else the order could be returned to Court
- Explain acceptable and unacceptable reasons for missing an appointment and the importance of letting the Youth Offending Team know as soon as possible if the young person is going to be late or cannot attend.

5.15 If the Initial Panel follows on from a Custody Threshold Panel, it is important that any changes made to the contract are in keeping with, or in addition to, the information that was sent to court.

6. Review Panels

6.1 The Referral Order Review Panels should be held at regular and agreed intervals. This is usually within three months for each review. The type of panel (face to face or virtual) is likely to continue for the reviews, but if a change is deemed necessary, the procedures outlined in section 5 should be followed.

6.2 A Review Panel Report, written by the young person in conjunction with their parent/carer and the Case Manager, will be prepared for the meeting and made available to the panel members on the day of the panel. A review of the Asset Plus assessment should also be completed at the time of the Review Panel.

6.3 It may not be necessary for all the original participants to attend Review Panels. However, wherever possible, it is desirable that at least one Community Panel Member from the Initial Panel is present at all panel meetings to provide continuity. The National Standard of two Community Panel Members and one representative of the YOT in attendance at each panel should be adhered to. If this is not possible, a National Standards exemption should be sought from a Team Manager or Advanced Practitioner and recorded on CAPITA.

6.4 The main aims of a Review Panel are:

- Re-score the outcomes to assess impact of intervention
- Discuss any additional needs/outcomes that may have arisen since the previous panel
- Add/change interventions where necessary
- Agree and sign the contract to continue the order

6.5 The Panel will follow the format outlined below, unless it is deemed more effective for the young person or victim in attendance to vary the format.

- Check in circle
- Introduction
- Discuss scores in turn
- Discuss new outcomes and any items in brackets on the contract

- Agree and sign the contract
- Check out circle

6.6 In order for the contact to be flexible and responsive to the needs of the young person, a new contract is written and signed at each review.

7. **Compliance and Enforcement**

7.1 Compliance with the Referral Order should be managed according to the Compliance and Enforcement Policy, which can be found on Sharepoint.

7.2 Where a young person has not complied with the Referral Order, a 'Back on Track' Panel will be arranged within 10 working days of the unacceptable failure to attend appointments or behaviour triggering breach. As a norm, this should be a face to face meeting in order to emphasise to the child the seriousness of the situation.

7.3 A record on Capita should be made through adding the 'initiate breach' or 'breach decision' event prior to the 'Back on Track' Panel.

7.4 Before the 'Back on Track' Panel attempts should be made to meet with the young person to complete a 'Back on Track' Report, which if completed, will be shared with the panel members on the day of the meeting. A review of the Asset Plus assessment should also be completed at the time of the 'Back on Track' Panel.

7.5 The aim of the 'Back on Track' Panel is:

- To identify barriers to the young person engaging with the Order.
- To assess whether or not the Order can continue or whether it needs to be returned to court.
- To agree a new plan of action if the Order is to continue

7.6 The panel will follow the format outlined below, unless it is deemed more effective for the young person to vary the format:

- Check in circle
- Introduction
- Discuss what has happened to take the Order off track
- Discuss the plan to get the Order back on track
- Decide whether the Order can continue or not
- Check out circle

7.7 The Panel Members may decide that the Order can continue, with an amended contract if necessary, or may decide to return the Order to Court. Where the Order is to be returned to Court, a panel statement should be signed by the lead Panel Member. This is included in the breach pack for Court. Where the Order is allowed to continue, the new contract, with any amendments, is signed.

7.8 Following the 'Back on Track' Panel, an 'authorise breach' event should be added to CAPITA by a Team Manager or Advanced Practitioner. This will record whether the breach is 'stayed' where the panel agree to allow the Order to continue, or whether the young person is to be returned to Court. Where the young person is to be returned to Court, the CAPITA breach process should be followed.

7.9 A Compliance Report will be prepared for the Court hearing in accordance with the Compliance and Enforcement Policy, which can be found on Sharepoint. Details of the sentencing options for breach of a Referral Order can be found in the [YJB Referral Order guidance](#).

8. **Extension in the Interests of Justice**

8.1 Where a young person has not been able to comply with the Order due to circumstances beyond their control, the Panel may refer the Order back to Court for extension in the interests of justice. This extension can be for a maximum of three months, subject to the total limit of twelve months for the Order overall. A review of the Asset Plus assessment should be completed at the time of the extension.

9. **Early Revocation**

9.1 The Referral Order may be revoked early in the interests of justice after the halfway stage in cases where the young person has completed all elements of their contract and where their risk of causing serious harm to others and risk of re-offending has been assessed as low.

9.2 The process of early revocation will begin with a recommendation by the Panel Members at a Review Panel. The panel will complete a Referral Order Panel Statement which will be attached to the Early Revocation Report submitted to the Court.

9.3 If the Magistrates refuse the application, a further application cannot be made for three months unless otherwise indicated by the magistrates.

10. **Revocation Due to a Change in Circumstances**

10.1 Where there is a change in circumstances resulting in the young person being no longer able to comply with the Order, it is possible to refer the Order back to Court for revocation and resentencing. An example would be the young person moving abroad. The Panel should discuss the request to revoke the Order with the young person. Where it is agreed that revocation would be appropriate, and that a variation of the contract would not be sufficient, the young person should be referred back to Court for the Court to consider revocation and resentencing.

10.2 A Referral Order Panel Statement and a report by the Case Manager will be provided to the Court to outline the reasons for the request for revocation. A review of the Asset Plus assessment will also be completed to reflect the change in circumstances.

11. **Final Panels**

11.1 The Final Panel should be held during the last month of the Referral Order.

11.2 The main aims of a Final Panel are:

- Review the effectiveness of the Order
- Re-score the outcomes to chart progress made
- Discuss strategies with the young person to continue their success
- Celebrate success

11.3 The Panel will follow the format outlined below, unless it is deemed more effective for the young person to vary the format:

- Check in circle
- Introduction
- Final scoring of the outcomes
- Final views and celebration circle
- Check out circle

11.4 A letter of congratulation will be sent to the young person to confirm discharge of the Order. A review of the Asset Plus assessment will be completed at the time of the Final Panel. This review may be the 'case closure' stage of the Asset Plus assessment if the young person has completed all of the work agreed on their contract.