

# **The Association of Youth Offending Team Managers (AYM) response to the NPCC on use of Outcome 22**

**(January 2022)**

## **About the AYM**

The AYM is a professional association representing the majority of youth offending teams (YOT) and their managers in England.

Section 39 (1) of the Crime and Disorder Act 1998 requires the co-operation of the named statutory partners to form a YOT. Section 38 (1, 2) identifies the statutory partners and places upon them a duty to co-operate in order to secure youth justice services appropriate to their area. These statutory partners are the local authority, police, the probation service, and health. To support the YOT, additional partners may also be recruited to the joint strategic effort to prevent offending by children and young people.

The Association is able to draw on the wealth of knowledge and the breadth of members' experience, to promote public understanding of youth crime issues and to play its part in shaping the youth crime agenda.

Our members run services providing community-based supervision for children and young people who offend and those at risk of offending. We also work closely with staff in secure units and young offender institutions to ensure that young people in custody have as smooth a transition as possible into custody and on their return back in to the community.

The AYM welcomes the opportunity to provide feedback to the National Police Chiefs Council on the proposed mandatory use of Outcome 22 and specifically it's use with children and young people.

AYM are broadly supportive of the use of Outcome 22 and note it is already being used effectively by several police constabulary areas where the local YOTs/YOS/YJS have been actively involved in planning for implementation. The risk and needs of children in conflict with the law are different to those of adults, and we are strongly of the opinion that instead of including youth examples with the FAQ's of the proposed NPCC briefing note, that a separate briefing note is produced specifically for under 18's. This would be in line with *Child First* principles across the youth justice sector and align with NPCC's own child centred policing principles outlined in the strategy for the Policing of Children & Young People (2016).

There are a variety of different pathways and processes for youth out of court disposals in operation across the country, hence the importance of involving the local

YOT/YOS/YJS in planning for implementation of O22. AYM would urge against a briefing note that is overly prescriptive on how and when O22 can be used. While it is absolutely necessary to have checks and balances in the system to avoid inappropriate or repeated use that could undermine confidence in OOCs, the experience of YOTs in Deferred Prosecution pilot areas is of rather overly bureaucratic exclusionary criteria that have greatly limited the use of O22.

For example in West Yorkshire children are ineligible for O22 if the offence is older than 2 months, if the offence is part of a joint enterprise involving others and for all Knife crime offences (including possession of a bladed article). The context of an offence committed by a child is vitally important to consider, this is why there are multi-agency joint decision making arrangements in place for children. AYM would urge NPCC to work with the AYM, YOT Managers Cymru and the YJB in producing a youth specific briefing note that provides clear national guidance while also affording a degree of local flexibility in how O22 is implemented and applied within existing OOC schemes. AYM members have concerning examples of children (including some as young as eleven) who have been deemed ineligible for OOC when the context behind the offence has been a distressed child using bladed articles to self-harm. A separate briefing note by NPCC relating explicitly to children is an opportunity to encourage local Police constabulary's to properly consider the context behind bladed article possession in arriving at rational, defensible outcomes.

The use of O22 potentially aligns very well with *Child First* youth justice principles and Trauma informed approaches to working with children because many of the behaviours that bring children to the attention of police such as criminal damage and common assault in care homes arise from past experience of trauma.

AYM is also supportive of the removal of the requirement to admit guilt which is a positive feature of O22 and could help reduce disproportionality given evidence suggests young black males have mistrust in the CJS, are less likely to admit offences making them ineligible for most youth OOC schemes. HMI Probation thematic on the experience of black and mixed heritage boys in the youth justice system<sup>1</sup> found the large majority had experienced multiple adverse childhood experiences and had high levels of special educational needs (SEN) and mental health difficulties, which had not always been identified or properly addressed until they came into contact with the YOS. HMiP findings show the potential value of O22 for this cohort of children where the offence may be symptomatic of unmet need, but a multi-generational lack of confidence in the criminal justice system is compounding systemic inequality.

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<sup>1</sup><https://www.justiceinspectorates.gov.uk/hmiprobation/wp-content/uploads/sites/5/2021/10/The-experiences-of-black-and-mixed-heritage-boys-in-the-youth-justice-system-thematic-report-v1.0.pdf>

AYM also note however that if rigid eligibility criteria are applied (such as those described above) this will significantly restrict the use of O22 and negate its potential benefits in reducing disproportionality (and FTE rates).

Finally, AYM cautions against the net-widening effect of designing in unnecessary additional '*system contact*' through onward referral to YOTs/YOS/YJS where the evidential threshold has clearly not been met. Pathways into local youth prevention schemes vary so it is important that before Police use O22 with children they consult properly with their local YOT/YOS/YJS and local pathways are adapted that are evidence based and avoid unnecessary formal system contact which can have a criminally reinforcing effect on children.