



# **DORSET COMBINED YOUTH JUSTICE SERVICE**

## **DORSET POLICE**

# **YOUTH OUT OF COURT DISPOSALS PROTOCOL**

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# YOUTH OUT OF COURT DISPOSALS IN DORSET

## 1 Scope

This document sets out the joint working arrangements between Dorset Police and Dorset Combined Youth Justice Service (DCYJS) for the administration of youth Out of Court Disposals across the Dorset area.

1.1 The Ministry of Justice document ‘Youth Out of Court Disposals: Guide for Police and Youth Offending Services’ states that ‘Police services and YOTs should draw up a joint protocol setting out locally agreed practice with regards to the out of court disposal system and agree suitable means of joint decision-making’.

1.2 The Youth Justice Board’s Case Management Guidance states that Youth Offending Teams should

‘Draw up a partnership protocol with your police service, setting out locally agreed practice for the administration of out-of-court disposals. The process agreed should be signed off by your youth justice partnership board, and this body has responsibility for monitoring and oversight of this work. The protocol should include:

- how and within which timescales the police will inform your team that any out-of-court disposal has been made
- how and within which timescales an assessment for suitability for a Youth Caution or Youth Conditional Caution is required
- the timescales for bail and information required to take decisions regarding bail cancellation
- use of restorative processes, including:
  - 1) contact with victims by the police
  - 2) involvement of victims in direct or indirect restoration
- arrangements for the police to inform victims of progress and outcomes
- joint training arrangements for your team and police staff
- how information on the impact of out-of-court disposals will be monitored, including quality assurance, completion and re-offending rates’

1.3 This document constitutes our local partnership protocol. The Youth Justice Board Case Management Guidance was written in October 2014, shortly after the introduction of the new Out of Court Disposal framework. Some changes have occurred since that time, such as to the use of police bail, which are reflected in this document.

## **2 Context**

- 2.1 The current arrangements for Youth Out of Court Disposals were set out in sections 135 – 138 of the Legal Aid, Sentencing and Punishment of Offenders (LASPO) Act 2012, and came into effect in April 2013.
- 2.2 The Ministry of Justice published guidance documents, including ‘Youth Out of Court Disposals: Guide for Police and Youth Offending Services’, ‘Youth Cautions: Guidance for Police and Youth Offending Teams’; and ‘Code of Practice for Youth Conditional Cautions’.
- 2.3 The Youth Justice Board and the Crown Prosecution Service have also published guidance on the use of Out of Court Disposals.
- 2.4 This document is intended to be consistent with the legislation and the published guidance.

## **3 Underpinning Principles**

- 3.1 Dorset Police and Dorset Combined Youth Justice Service agree to a common set of principles, which underpin the use of Youth Out of Court Disposals in Dorset.
- 3.2 The principal aim of the youth justice system, established by section 37 of the Crime and Disorder Act 1998, is to prevent offending by children and young people.
- 3.3 Out of Court Disposals aim to ensure outcomes are both proportionate to the crime committed and effective in reducing the risk of further offending.
- 3.4 Evidence shows that the early criminalisation of children and young people can increase the risk of further offending. Opportunities will therefore be sought to avoid unnecessary criminalisation of children in Dorset.
- 3.5 The decision-making process should be responsive to the views of victims.
- 3.6 Restorative Justice is known to be effective in meeting victim needs and reducing offending.
- 3.7 Restorative options will therefore be considered in the decision-making process and prioritised when possible.
- 3.8 Partnership working is fundamental to the aim of preventing further offending.
- 3.9 Dorset Police will consult with the Youth Justice Service and with the Neighbourhood Policing Team prior to making a disposal decision for all youth offences (except those where a charge to court cannot be avoided). The Youth

Justice Service will seek the views of other professionals who work with the child, such as the social worker for a child in care.

- 3.10 Decision-making should not be delayed unnecessarily. A prompt decision and outcome is beneficial to the young person, and to the victim, and is most likely to lead to a reduction in future offending.
- 3.11 The use of Out of Court Disposals, or other justice outcomes, should reflect the individual circumstances of the child, the offence, the level of past offending, compliance with previous disposals and any mitigating or aggravating factors. The disposal decision should not be used as a way to meet the welfare needs of the young person.
- 3.12 Some groups are known to be over-represented in the youth justice system, such as children in care, young people from Black, Asian and Minority Ethnic backgrounds, and children with special educational needs. Our local arrangements will be pro-active in avoiding the early criminalisation of children from these groups.
- 3.13 It is important that young people, their families, and victims all understand the justice processes that are being applied and are able to make informed decisions. This may require additional support in response to speech, language and communication needs.

#### **4 Available options for offences committed by children**

- 4.1 In dealing with an offence committed by a person under the age of 18, the police have a range of options:
- No further action
  - Youth Diversion Disposal (Outcome 22)
  - Community resolution (known locally as a Youth Restorative Disposal)
  - Youth Caution
  - Youth Conditional Caution
  - Charge
- 4.2 Restorative justice can be an element of any of these disposals but is not a disposal in its own right.
- 4.3 **No Further Action:** this outcome can be used by the Police when no action is appropriate or warranted, for example if an offence is not substantiated, or there is insufficient evidence to identify the offender, or when it is not in the interests of justice to proceed.
- 4.4 **Youth Diversion Disposal:** this outcome is used for first time simple possession of cannabis. It is a partnership approach to provide wrap around support to

prevent further use and offending at the earliest opportunity. The disposal is recorded on local police systems. The record will not be routinely disclosed though it can be shared if adjudged relevant by the police during an enhanced criminal records check. The YDD is not a formal disposal and does not amount to the child entering the justice system.

- 4.5 **Youth Restorative Disposal:** this outcome is the local youth version of a 'community resolution'. This applies when an offence is resolved by an informal arrangement, following consideration of the seriousness of the offence, any past offending by the young person, the views of the victim and the willingness of the young person to participate. This disposal is usually reserved for low-level crime committed by young people with no or little record of past offending. All Youth Restorative Disposals are recorded on the local police system and can be disclosed as police information relevant to an enhanced criminal records check.
- 4.6 **Youth Caution:** this is a formal disposal which may be given for any offence when the young person admits the offence and there is sufficient evidence for a realistic prospect of conviction, but it is not in the public interest to prosecute. Voluntary conditions can be attached to a Youth Caution. There is no immediate penalty if the young person fails to comply with the conditions, but this information will be recorded and could be considered in the choice of any future disposal options.
- 4.7 For second or subsequent Youth Cautions the YJS must carry out an assessment of the young person, and when appropriate put in place a rehabilitation programme to prevent further offending.
- 4.8 **Youth Conditional Caution:** this is a formal disposal, with a compulsory assessment and intervention attached to it. A Youth Conditional Caution may be offered when a young person admits an offence, there is sufficient evidence for a realistic prospect of a conviction and when the public interest can best be served by the young person complying with suitable conditions rather than a prosecution.
- 4.9 The YJS must assess the young person for a Youth Conditional Caution and advise on their suitability to be managed in the out of court arena and provide appropriate conditions. The young person must also agree to accept the Youth Conditional Caution and the conditions attached.
- 4.10 The YJS is responsible for monitoring and reporting on compliance with the conditions.
- 4.11 Failure to comply with the conditions can result in prosecution for the original offence.

- 4.12 All offences are eligible for a Youth Conditional Caution, but for indictable-only offences the Crown Prosecution Service will need to be consulted and to authorise the decision.
- 4.13 **Charge:** charging an offender means that the case will be put forward for prosecution in court.
- 4.14 In light of recommendations in the Lammy review the Police Youth Justice Team will seek to develop a process to review youth court cases that may have been suitable for an out of court disposal had the young person admitted the offence.
- 4.15 The Police Youth Justice Team will aim to provide a suitability review on all youth charging decisions prior to the decision being made; this will include consultation with DCYJS.

## 5 Timescales

- 5.1 The national guidance for Youth Conditional Cautions states that, for summary only offences, all conditions should be completed within 16 weeks *of the offence*. For offences that are triable either way, or indictable only, the guidance states that the conditions should be completed within 16 weeks *of the conditional caution being administered*, and in exceptional cases this can be extended to 20 weeks.
- 5.2 The guidance therefore provides for different starting points and durations for conditional cautions, depending on the status of the offence.
- 5.3 The national guidance for Youth Cautions does not specify the start or end times for YOS involvement, or for the decision-making process, but does state that ‘the citable components of any intervention programme must not be longer than three months in duration’. Interventions attached to diversion activity, such as the YDD or YRD, do not have fixed duration and can fit the needs of the child but are not usually longer than the duration of work under a Youth Caution.
- 5.4 Locally, all parties agree that a prompt decision and outcome is beneficial to the young person, and to the victim, and is most likely to lead to a reduction in future offending. It is not practicable to operate different timescales for different disposals and different offence types.
- 5.5 The timescales set out in this protocol relate primarily to the activities that commence when the police Youth Justice Team receive information about an offence committed by a young person. It is recognised that delays can occur between the date of the offence and the completion of the investigation.

## 6 Procedure

- 6.1 The detailed procedure for Youth Out of Court Disposals is depicted in the flowchart shown in Appendix One. The following paragraphs summarise the procedure, and comment on specific aspects of it.

## **7 Decision-making**

- 7.1 The Police Youth Justice Team will receive information relating to an offence by a young person on a 'C413' form sent by the officer in the case. The Police Youth Justice Team will undertake necessary checks and send the C413 to the YJS and to the Neighbourhood Police Team within 2 working days.
- 7.2 The YJS and the Neighbourhood Police Team will return the C413 with their information, and an initial view about the appropriate disposal, within 2 working days.
- 7.3 Following this consultation process, the Police Youth Justice Team will either decide on the disposal or ask for an assessment by the YOS within 2 working days.
- 7.4 British Transport Police also undertake consultations with DCYJS on possible Out of Court Disposals. DCYJS will apply the same timescales and processes to these consultations.
- 7.5 First Youth Cautions will usually have generic conditions to comply with a YJS assessment and a resulting intervention plan.
- 7.6 Second and subsequent Youth Cautions, and Youth Conditional Cautions, will usually require an assessment by the YJS prior to the disposal being confirmed, so that appropriate conditions can be added to the Youth Caution/ Youth Conditional Caution. However, a generic Youth Caution can also be issued depending on the individual circumstances. In some cases, eg where a recent assessment has been completed, it may be appropriate to undertake the assessment after the Caution has been delivered.
- 7.7 When an assessment by the YJS is required, this should be completed and the updated C413 returned to the Police Youth Justice Team within 15 working days.
- 7.8 When the assessment is requested a decision date will be fixed for the end of the 15 working days period. In cases where the assessment is not completed in this timescale the YJS will provide as much information as possible in order to allow a decision to be taken at this point. The assessment process will continue and can inform the conditions for an Out of Court Disposal if made available before the disposal is administered.



- 7.9 The YJS will use their Brief Assessment tool for the assessment of Out of Court Disposal cases, unless the risks and/or complexity of the case require an AssetPlus assessment to be completed.
- 7.10 Suitable representatives from the Police Youth Justice Team (usually the Sergeant) and the YJS (usually a Team Manager) will meet weekly to review cases that are in progress and to consider cases which require a face to face discussion. The views of children's social care and early help services from each local authority will be included either by direct attendance at the meeting or through representation by the YJS.
- 7.11 When the disposal decision is confirmed, following either the 48-hour consultation process, or the more detailed YOS assessment, the Youth OOC team will complete the necessary processes and information sharing for the disposal to be delivered.

## **8 Youth Diversion Disposal**

- 8.1 When a decision has been taken to use a Youth Diversion Disposal the Police Youth Justice Team will liaise with the appropriate drugs outreach service
- 8.2 The Police Youth Justice Team will assess if the young person has associated risks or vulnerabilities and will share information with Safer Schools and Communities Team (SSCT).
- 8.3 The SSCT will provide an educational input around drugs and the law. The appropriate drugs outreach service will assess the needs of the young person for ongoing support.

## **9 Youth Restorative Disposals**

- 9.1 When a decision has been taken to use a Youth Restorative Disposal (YRD), the Police Youth Justice Team will select the appropriate team to deliver the YRD.
- 9.2 Offences on or near school premises will usually be referred to SSCT
- 9.3 Offences involving children and young people who have no apparent welfare concerns, or when these are already being addressed, will be referred to SSCT. Offences involving retail theft or possession of drugs generally will require the young person to attend a retail theft workshop or substance misuse workshop.
- 9.4 For other offences where there are apparent unmet welfare concerns the YJS may liaise with other services or undertake a brief assessment of the young person to help the young person to access relevant other support services. The YJS will deliver the YRD.

- 9.5 YRDs involve a restorative element, such as a restorative justice meeting, a restorative conversation or a workshop with a restorative component. When this has been completed, the SSCT or the YJS will inform the Police Youth Justice Team.

## **10 Youth Cautions and Youth Conditional Cautions**

- 10.1 When a decision has been taken to issue a Youth Caution or a Youth Conditional Caution, and relevant conditions have been identified, the Police Youth Justice Team will prepare the caution certificate and send the necessary information to the YJS Police Officers.
- 10.2 The relevant police officer will contact the young person and their family and arrange to deliver the Youth Caution/Youth Conditional Caution within ten working days.
- 10.3 The YJS will not usually commence work with the young person on the conditions of a Youth Caution/Youth Conditional Caution until the caution has been delivered.
- 10.4 In some cases, where risk issues apply or where it is helpful for the engagement of the young person, the YJS will maintain contact during the period between the YJS returning the C413 and the caution being delivered. This period can also be used for further assessment if required, e.g. by the YJS health team or speech and language therapist.
- 10.5 Following the caution being delivered, and the certificate being signed by the young person, the YOS will work with the young person to deliver the specified conditions within the following 12 weeks. For Youth Conditional Cautions relating to complex offending, the intervention period may be extended up to a maximum of 20 weeks from the caution being delivered. The length of the YJS supervision period must be decided before the Youth Conditional Caution is administered and must be explained clearly to the young person and their parent/carer.

## **11 Compliance**

- 11.1 The YJS will work pro-actively to engage the young person and secure their compliance with the intervention programme. The YJS will give clear information to the young person and their parent/carer about which aspects of the intervention programme are a 'citable' condition of the caution.
- 11.2 If the young person fails to comply with a requirement of the caution intervention programme, including non-attendance at a properly scheduled YJS appointment, the YJS will investigate the reasons for the non-compliance. If there is not sufficient explanation to justify the non-compliance, the YJS will issue a warning letter to the young person within 2 working days.

- 11.3 Two unacceptable failures to comply with the voluntary conditions of a Youth Caution will usually lead to the YOS closing their involvement and reporting this outcome to the Police Youth Justice Team.
- 11.4 On a Youth Conditional Caution the YJS will usually refer the young person back to the police for non-compliance after the third unacceptable failure to comply. Some single instances of non-compliance may be so serious as to require immediate referral back to the police.
- 11.5 The YJS PC will monitor cases on a monthly basis and provide regular feedback to the Police Youth Justice Sergeant to achieve this
- 11.6 The Police Youth Justice Team will consider cases of non-compliance with a Youth Conditional Caution to decide if the young person should be charged with the original offence.
- 11.7 When a young person successfully completes a Youth Caution/Youth Conditional Caution the YJS will report this outcome to the Police Youth Justice Team at the end of the intervention programme.

## **12 Information Sharing**

- 12.1 Dorset Police are signatories to the Dorset Combined Youth Justice Service Partnership Personal Information Sharing Agreement.
- 12.2 Section 115 of the Crime and Disorder Act (1998) provides for the purposeful and proportionate sharing of sensitive personal information between statutory agencies in order to prevent offending.
- 12.3 Personal information will be shared securely between Dorset Police and Dorset Combined Youth Justice Service and will be stored securely by each agency.
- 12.4 The police 'C413' form will be the main vehicle for information sharing. This is a police form, which will be shared with the YJS. The YJS will add information to this form, and return it to the police, to assist with decision-making. The YJS will store this form securely and treat it as third-party information. This means that it will be destroyed on YJS systems a year after the end of the YJS contact with the young person.

## **13 Harmful Sexual Behaviour**

- 13.1 Youth Out of Court Disposals may be used in response to sexual offences committed by young people. The gravity factor for these offences may require CPS involvement in the decision-making process (illustrated on the flowchart in Appendix One).

- 13.2 Such cases are likely to require assessment by the YJS before the disposal (YCC or charge), and any necessary conditions, can be decided. The YJS will usually undertake an AssetPlus assessment prior to the disposal decision. Following delivery of the Youth Caution/Youth Conditional Caution, the YJS will then undertake a more specialist Harmful Sexual Behaviour assessment as part of the caution conditions, followed by appropriate intervention work.
- 13.3 The duration of an Out of Court Disposal, even when the intervention programme is extended to the maximum 20 weeks, is unlikely to be long enough to allow all of the necessary work to be completed. This needs to be considered when deciding on the correct disposal for an offence, with the option of charging the young person as an alternative. In some cases, the YJS may be able to hand work over to the local authority at the end of the 20 weeks, but this is dependent on the case circumstances and cannot be relied upon when deciding on the correct justice disposal.

#### **14 Transitions and young people out of their local area**

- 14.1 The following paragraphs explain the arrangements for Dorset young people placed elsewhere; for offences in Dorset committed by young people resident outside Dorset; for local children in care placed out of our local area; and for young people who turn 18 during the investigation into the offence.

#### **15 Dorset young people committing offences outside Dorset**

- 15.1 The responsibility for investigating and disposing of the offence rests with the local police force. When a Dorset young person is identified as a suspected offender by another police force, their local out of court disposal consultation process will apply. DCYJS will respond to consultations requested by other police forces, including the assessment of young people consistent with the principles outlined in this Protocol.

#### **16 Young people from other areas committing offences in Dorset**

- 16.1 Dorset Police will investigate all offences committed in Dorset. When a young person from another area is identified as the suspect for an offence which fits the criteria for consideration by the Dorset Police Youth Justice Team, that team will liaise with the young person's local youth offending team. DCYJS can help to facilitate this liaison but is not responsible for providing consultation or assessment in respect of out of area young people.

#### **17 Children in care placed out of area**

- 17.1 Youth offending teams retain case responsibility for children who are in care to their local authority.

16.2 When a child in care is placed out of their local area, their home youth offending team retains responsibility for consulting and assessing for possible out of court disposals. This means that DCYJS is responsible for advising on the disposals for our local children in care who are placed elsewhere. Conversely, children in care who are placed in Dorset by another local authority, and who are identified as having committed offences that may be suitable for an out of court disposal, should be subject to consultation and assessment with their home youth offending team. In practice, the police will often consult initially with their local youth offending team, which should then liaise with their counterpart in the child's home local authority.

## **18 Young people turning 18**

17.1 When a young person turns 18 during the period between the commission of the offence and its disposal, formal youth out of court disposals become unavailable. However, the offender could still be considered for a Youth Restorative Disposal. Alternatively the 18 year old can be given an adult disposal.

## **19 Oversight and Review of this Protocol**

18.1 National guidance for police and youth offending services on the use of youth out of court disposals states that police services and youth offending teams should draw up local protocols for the administration of out of court disposals. The guidance also states that the protocol should be signed off by the local youth justice partnership board, which has responsibility for monitoring and oversight of this work.

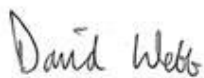
18.2 In Dorset the local youth justice arrangements are overseen by the Dorset Combined Youth Justice Service Partnership Board. This Protocol will be reviewed annually by the YJS Manager and the Child Centred Policing Manager, for approval by the DCYJS Partnership Board.

David Webb  
YJS Manager

Dorset Combined Youth Justice Service

Kerry Shelley

Child Centred Policing Manager  
Dorset Police



Signed:  
Date: 23.04.21

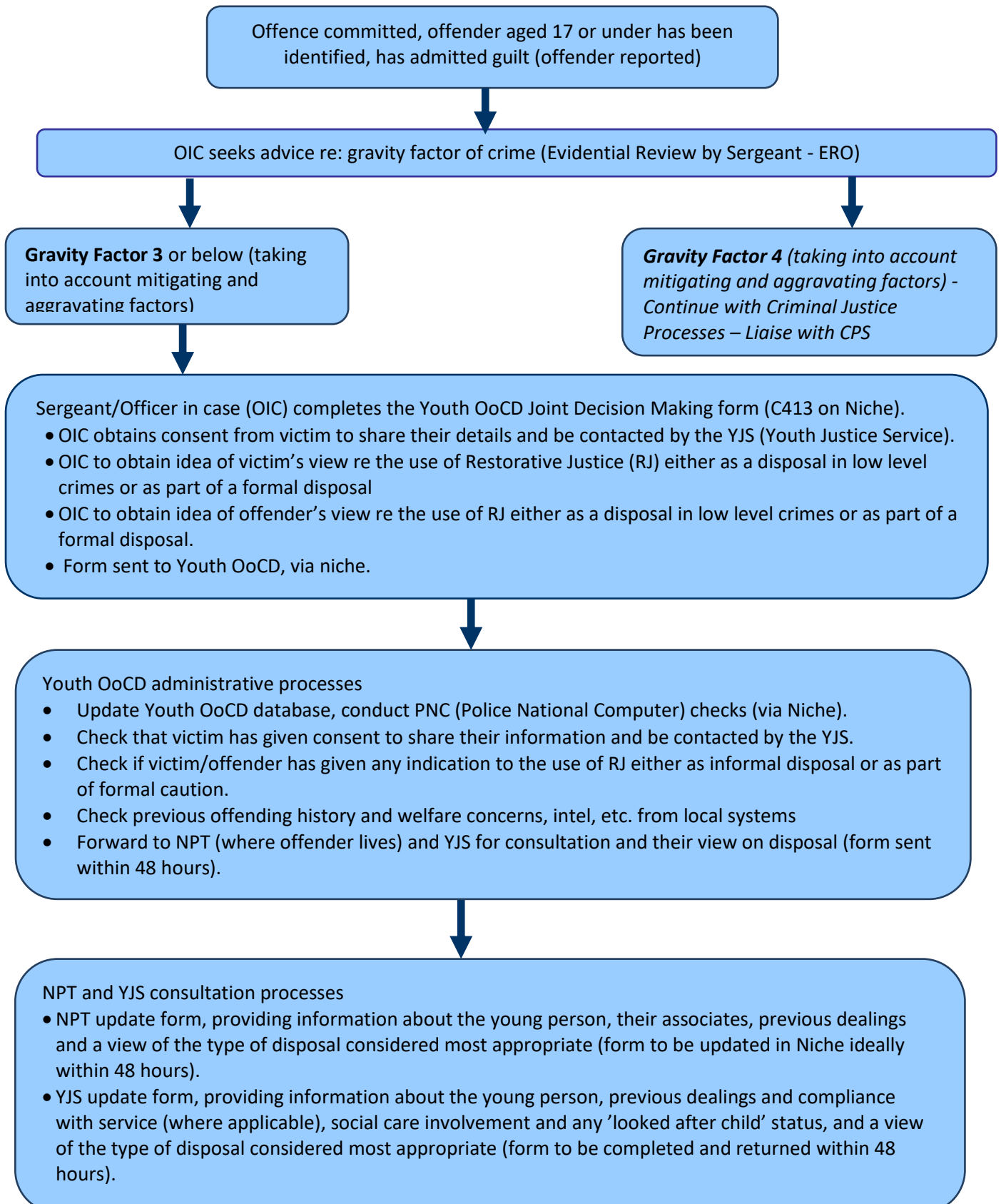
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# New flow chart to be added

## YOUTH OUT OF COURT DISPOSAL FLOWCHART (Youth OoCD)

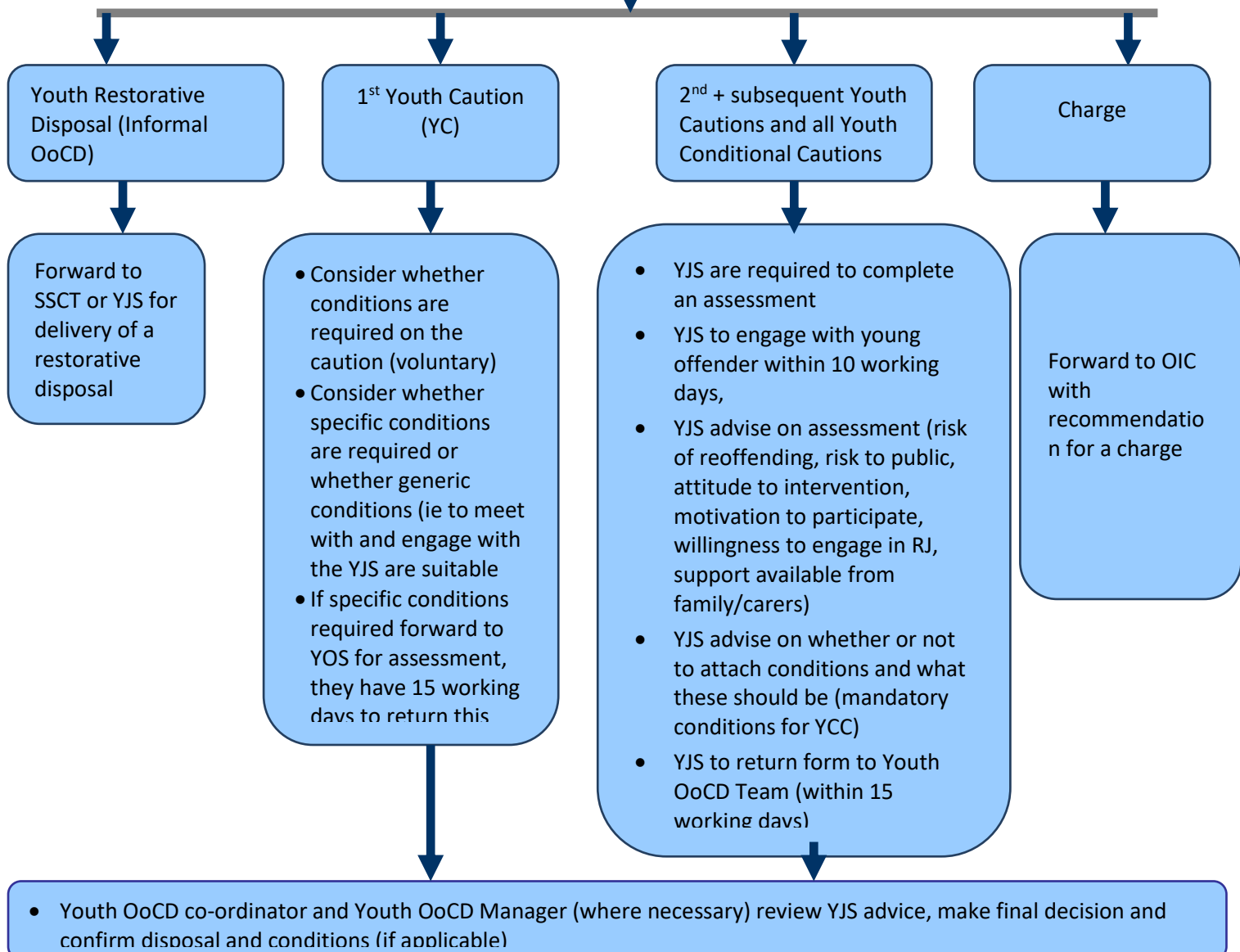




## YOUTH OUT OF COURT DISPOSAL FLOWCHART

Final decision makers are Dorset Police, following extensive consultation with ERO, OIC, YJS and NPT

Following receipt of the consultation responses from NPT and YJS, decision made on relevant disposal, based on victim's views, NPT and YJS views, Gravity Factor, previous offending, public interest.



Youth Caution/ Youth Conditional Caution forms are raised and forwarded to:

- Youth Caution – PC attached to YJS
- Youth Conditional Caution – NPT Sgt for the area where the offender lives

They will:

- Arrange for offender to attend police station, to receive caution/conditional caution
- Ensure offender agrees to comply with any conditions attached to the caution (where appropriate)
- Serves the Youth Caution or Youth Conditional Caution, issues Certificate and ensures the child signs it (where appropriate), provides copy and ensures biometrics have been taken.