



WHILE BRITAIN'S STREETS ARE INCREASINGLY LITTERED WITH JUVENILE CRIME, EMMA VERE-JONES REPORTS ON THE LATEST CHANGES TO YOUTH JUSTICE WHICH AIM TO REHABILITATE RATHER THAN DETAIN YOUNG OFFENDERS

Youthful pursuit

Lawless Britain. The newspapers have been rife with it. The streets of Britain are out of control, it is said, and something must be done. In particular, the rise of youth offending has sparked outrage in the media. High-profile cases such as the murder of Damilola Taylor in London and the notorious 'terror triplets' in Gillingham have made headline news.

As a result, changes to the youth justice system have been coming thick and fast.

The latest of these is the implementation of referral orders, which came into effect on 1 April 2002. Designed to target new offenders, these orders are given to juveniles who have not been previously convicted and who plead guilty to their charge. Such cases will be referred to the youth offender panel, which will provide a work programme that lasts between three and 12 months.

The idea is to rehabilitate new offenders before they offend again. Hamish Hodgen, a partner at Bristol firm Douglas & Partners and a specialist in youth crime, says the orders could be significant: 'Potentially this could be very behaviour changing. Hopefully, it will divert people away from crime.'

However, solicitors still have some reservations about the orders. 'The idea behind them is positive,' says Jane Scott of Middlesbrough firm Watson Woodhouse. 'But we're going to be keeping a close eye on the type of "punishment" that's going to be meted out.'

She is concerned that the punishment may be harsher than the kind currently given out under reparation and action plan orders.

What makes this more worrying is the fact that once referred,

defendants must sign a contract with the youth offender panel, outlining their punishment without the aid of their solicitor. Instead, the juvenile will be asked to sign in the presence of a parent or guardian, and the panel.

'The idea is based on the Scottish system, where a legally trained official convenes the panel and is able to advise on the law,' notes Mark Ashford, a partner at London firm Taylor Nichol. However, this is not the case in England, where the panel is made up of volunteers. 'Jack Straw picked bits out of the Scottish system, but that system is run a very different way.'

'I can see problems in that panels are not legally trained, and there's no legal aid,' he continues. 'These kids are the least legally sophisticated of any in the court system. And the parents may not necessarily stand by those children. The kids end up isolated and vulnerable.'

Some maintain that the reason for the removal of solicitors from the process is purely for cost. Others take a different view. 'Jack Straw felt lawyers were interfering too much,' says Mr Ashford. 'But shouldn't everyone have the right to a lawyer? They're in danger of breaching article six of the European Convention on Human Rights [the right to a fair trial].'

Other solicitors are concerned that the orders take away the judge's flexibility when sentencing. 'You may have one person appearing before the court for the most minor of offences – disorderly behaviour say – right through to someone who has committed a fairly serious offence,' says Mr Hodgen. 'But this takes away the court's discretion – they must make a referral order.'

Peer pressure: juveniles need to be educated in how to behave

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Photographs: Moviestore

Despite these concerns, solicitors are hoping the referral orders will be of benefit. 'In theory it may be more responsive for their needs,' says Mr Ashford.

'The 64 million dollar question is "are these things going to work?,"' says Ms Scott. 'But I certainly don't think locking people up does any good. That just trains them to become better criminals. An "education" in custody does more harm than good.'

Intensive supervision and surveillance programmes (ISSPs) are another relatively recent addition designed to divert juveniles away from custody and into rehabilitation within the community.

However, ISSPs are targeted not at new offenders, but at the 3% of youngsters who commit 25% of all crime in this country – 'young thugs who are wreaking havoc in the local community,' as David Blunkett recently described them.

To be considered for an ISSP, the juvenile needs to have been charged four times in 12 months, and have previously been given a community or custodial sentence.

The ISSP requires juveniles to attend 25 hours a week of one-to-one supervision. The programme covers education, crime-avoidance strategies, and reparation – community service, in other words. Also included are such things as sports, art and drama classes. It is a system that is both intensive and costly, but which many suggest is very worthwhile. 'It's the kind of intervention that will bring change,' says Mr Hodgson.

Most on the programme have enormous social problems, and may be excluded from, or are not attending, school. 'They will have more resources poured into them than ever before and that potentially is positive,' says Mr Ashford. 'The worry is that they may be so far down the line that the money is coming too late.'

That said, Mr Ashford gives the example of a client who received an ISSP in November. 'I didn't think he'd last more than a week, but he's still there at the beginning of April, without having breached any restrictions. Not that it hasn't been a struggle.'

Another measure – anti-social behavioural orders (ASBOs) – also look set to increase in use, as

attempts are made to crack down on street crime. The ASBO system was introduced under the Crime and Disorder Act 1998. When an order is given, it bans the individual concerned from certain areas where they have been causing trouble. Application for an ASBO can be made by the local authority or the police. Although ASBOs can be handed to adults, they have in most instances been given to juveniles.

To date, ASBOs have not been that frequent, and last week, defence solicitors came in for criticism for allegedly playing the system (see [2002] *Gazette*, 5 April, 4).

'ASBOs tend not to be used to a great extent. The procedure can sometimes be timely and costly,' says Mr Hodgson. 'So far the trend has not been to use them.' However, their use may become more frequent because of recent publicity in cases such as the 'terror triplets'.

There are concerns, though, that ASBOs may be more of a hindrance than a help. Some people working in youth justice predict that, rather than help rehabilitate a young offender, the ASBO will isolate them from the community. It also raises the question as to whether the juveniles involved should still have a right to anonymity.

The government's line is that identification is essential so that ASBOs may be enforced; communities must be able to identify and report a person if they break an order by re-entering an area from which they are banned.

Ms Scott has dealt with two ASBO

cases – in both of which she applied for the right of the children not to be named. The police objected, as did the local paper – but these objections were overruled by the magistrate. Ms Scott maintains that the danger of releasing the names in her cases was possible vigilantism and the danger of self-harm – one of the children concerned had made an attempt at suicide.

Even without 'naming and shaming', ASBOs have the desired effect, Ms Scott says. 'Everybody in the local community that was affected had been told by police. And if breaches occurred – which they did – they told police.' She reckons there was no need for the children to be vilified in the media as well.

These three orders are just a few of the recent significant changes to youth justice. Following recommendations from the Home Office, the last couple of years have also seen a significant reduction in delays in the youth justice system, with the average time from arrest to sentence for persistent young offenders dropping to 76 days last year, 17 days fewer than in 2000 and 66 days fewer than in 1996. The ultimate target is 71 days.

And recent changes in the Crown Court have been introduced in an attempt to make proceedings less intimidating for juveniles. Judges and lawyers do not wear robes, and defendants can sit with their families rather than in a dock. Judges are also being encouraged to interact with those charged.

Also on the increase is the use of electronic tagging. This has improved the effectiveness of curfew orders – making them much more enforceable.

It is hoped that these change, which focus on rehabilitation of young offenders, might counteract the massive rise of both juveniles and adults in custody.

Despite this, Britain still currently locks away more juveniles per capita than any other European country.

'Is custody really the answer?' asks Mr Ashford. Most involved in youth justice think not. 'I don't know what the answer is,' he continues, 'but just locking people up isn't going to help. We're just storing the trouble up for the future.' *Emma Vere-Jones is a freelance journalist*

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Leading by example: offenders may be given poor guidance