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# Applying activity theory to the study of new public management:

## An exploration of the local implementation of Bail Support and Supervision

by

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## **Declaration**

I declare that this thesis is entirely my own work.

I declare that no material from this thesis has been used or published before.

I confirm that the thesis has not been submitted for a degree at any other university.

## **Abstract**

This thesis draws upon three years spent evaluating the implementation of a Bail Support and Supervision Scheme in one local authority. It describes the development of the scheme within the locality, exploring its relation to the Youth Offending Team and youth court, and their associated liaison groups. In doing so I offer an exploration of theoretical considerations that explain how managerialist policies are translated into localised practice, from which a means to learn from and develop such policy will emerge. I develop a particular strand of activity theory, primarily from within the tradition established by Yrjö Engeström, and demonstrate its usefulness to the examination and understanding of nationally determined yet locally implemented social policies. Using the notions of object trajectory and expansive transformation, I show how local context has impacted upon the idealised object formation arising out of the managerialist policy aims. By exploring activity in the boundary zones between activity systems, I describe a series of material or transitory objects emerging in order to overcome the tensions and contradictions inherent in situated practice, culminating in a reinterpretation of the purpose of the scheme. I conclude by addressing the extent to which local context has altered the intent of the policy in implementation.



## **Chapter 1. Introduction**

The following thesis draws upon three years spent evaluating the implementation and development of a Bail Support and Supervision Scheme in one local authority in the West Midlands. The scheme to which this evaluation refers was established in May 2000 as a response to statutory requirements laid out in the Crime and Disorder Act 1998. Housed within the local Youth Offending Team (YOT) it serves a city with a traditionally high custodial remand rate, and thus represents a key, test-bed, targeted area for the initiative. The thesis describes the development of the scheme within the locality, exploring its relation to the local YOT and youth court, and their associated liaison groups. In order to do so I trace the narrative within the context of the broader policy and practice environment in which it is embedded, both locally and nationally, and apply this account to an investigation of the decisions made in court and the resulting nature of bail and remand interventions, in order to understand the impact of these developmental stages on the principal objectives of the scheme. In doing so I show how the particular context and environment in which the scheme has had to develop locally has facilitated or inhibited the successful realisation or achievement of the stated intentions and government targets.

Whilst based upon a small-scale, locally funded evaluation of a particular youth justice intervention, this thesis is informed by two broad, all-encompassing notions regarding the study of social policy: an interest in the seemingly relentless (if inconsistent) managerialism of state welfare institutions; and the application of complexity theory in understanding the world at large and social systems in particular. As the contextual narrative to the study unfolds the influence and applicability of both

these notions will become clear. In turn, as my analysis evolves, the reciprocal significance and value of an empirical application to an understanding of these ideas will emerge. Thus, whilst the study refers to the operationalisation of a particular youth justice intervention in a particular locality, it simultaneously serves as a study of a complex policy intervention, typical of an increasingly managerialist system. In tandem to an empirical study of the development and implementation of an element of New Labour's new youth justice in a key target area, I therefore offer an exploration of theoretical considerations that explain how government policies are translated into localised practice from which a means to learn from and develop such policy will emerge.

Given that a reduction in custodial remands is a policy of the New Labour Government this study explores why, and how this is being implemented. The focus of this thesis is therefore on how the Government's aims of and approaches to reducing the numbers of young people remanded into custody are operationalised through the various levels of consideration and implementation. In addition I present an approach to local exploration that offers a means to understand managerialist policy enactment, to learn from current attempts at implementation and to subsequently develop responses that might more successfully work towards the achievement of the policy goals of new public management. Given that the purpose of such policy is to produce change it is imperative to understand why that change is or is not occurring in order that it might be encouraged, strengthened and perhaps reproduced elsewhere, or the barriers to its occurrence recognised and where possible removed. With an emphasis on local enactment and implementation such learning requires local level enquiry through an understanding of context and an exploration of

situated practice. To this end I develop an approach rooted in a particular strand of activity theory, primarily from within the tradition established by Engeström, grounded in both the theoretical literature and the experiences of others who have utilised such an approach in empirical study.

In this introductory chapter I provide a brief narrative as to the basis for and background to the particular intervention addressed by my study. This policy is then placed within a broader context of state managerialism, counterbalanced by consideration as to the importance of professional discourse and practice in implementation, drawing explicitly on Michael Lipsky's (1980) theorisation of street-level bureaucracies. I then briefly introduce the theoretical and methodological framework, developed in response to this contextual understanding, before outlining, chapter by chapter, how the narrative of the thesis will unfold.

### **The introduction of Bail Support and Supervision**

Within the youth justice system the remand process should be seen to serve a dual purpose by ensuring the minimisation of the risk to the victim and to the public in general seen to be caused by the alleged offender, whilst at the same time protecting the young person and respecting their rights, being unconvicted and therefore assumed to be innocent before trial. It was the latter of these that was reiterated within the Crime and Disorder Act 1998 which drew upon a significant body of research and policy literature that presented the use of custody for unconvicted young people to be potentially damaging and thus undesirable (see for example Woolf, 1991; Liebling 1992; Cavadino and Gibson, 1993; Her Majesty's Chief Inspector of Prisons, 1997, all of which predated and informed the Crime And Disorder Act 1998). The

Crime and Disorder Act 1998 (Section 38) therefore emphasised a need to reduce the 'inappropriate' use of custodial remand for young people through the provision of a credible community-based alternative programme that addressed the concerns regarding the public risk. Thus the statutory duty to provide bail support (later re-named bail support and supervision) was outlined.

Bail Support and Supervision is defined within the Youth Justice Board's 'Guide to the National Standards for Bail Supervision and Support Schemes' (YJB / Nacro Cymru, 2001) as:

Community based activities in programmes designed to help ensure that defendants awaiting trial or sentence successfully complete their period of bail by returning to court on the due date, without committing offences or interfering with the course of justice, and to assist the bailee to observe any conditions of their bail.

The specific aims of such schemes, stated within the 'National Standards for Bail Supervision and Support Schemes' (YJB, 2001a) are to:

- a) Prevent offending on bail
- b) Ensure the appearance of the young person at court to reduce delays in the court process
- c) Ensure remands to custody and secure remands are kept to the essential minimum

Thus the development of such schemes seeks to provide courts with the option of granting bail with sufficient conditions for those charged with serious offences or with persistent offending habits, so as to satisfy any concerns as to the possible behaviour

of the young person during the bail period. Local schemes are therefore designed so as to offer a programme of support and supervision to address any concerns the court has about the young person offending on bail or not returning to court for trial, promoting and safeguarding the public interest during the period of bail, while enabling the young person to stay in the community.

In addition to providing the above, the supportive nature is also prominent in the descriptions of the scheme provided by its Coordinator, as illustrated in the following extract from a promotional document:

The Scheme acknowledges that many children in trouble face a wide range of difficulties and problems... For those on the Scheme the staff provide constructive help and support with issues such as accommodation, family and social relations, pathways into education, training and employment, drug and alcohol misuse and the provision of counselling services. (Leaflet for Youth Court User Group, October 2000)

To serve these purposes the Coordinator designed a typical programme of provision involving a minimum of three sessions a week with a member of the bail team, in addition to any extra activities organised through the YOT to meet individually identified problem areas. The bail sessions will usually include one home visit a week, so as to support the young person's family and involve them in the practice of any agreed interventions.

Chapter 4 will explore the basis for the initiative in more detail, placing it within the context of broader youth justice policy development and presenting it as typical of an increasingly managerialist system. The particular policy initiative under investigation

will be seen to represent an example of managerialist policy development in general. In turn understandings of managerialism are employed as the basis for the study of this particular policy implementation.

### **The rise of the managerialist state**

Since 1979 a wealth of reforms undertaken by successive Conservative governments, and continued by New Labour, have questioned the nature of ‘organizational design, structure, culture and coordination’ within the welfare state (Clarke et al, 2000b).

John Clarke and Janet Newman (1997) describe the emergence of the ‘managerial state’ as a ‘permanent revolution’ encompassing a broad range of attempts to control public spending; reform the civil service; and develop new delivery systems for welfare services; with an associated redefinition of the relationships between state and citizen, public and private, and providers and recipients of social welfare. Premised on a reconstruction ‘of political, economic and social issues as problems to be managed, rather than necessarily resolved’, all such reforms are seen to be driven by ‘the three E’s of *economy, efficiency and effectiveness*’ (Muncie, 1999: 149). As such managerialism represents ‘a distinctive set of ideologies and practices which form one of the underpinnings of an emergent political settlement.’ (Clarke and Newman, 1997: ix)

Reforms of the 1980s are therefore presented as ‘Remaking state institutions’ in the image of this developing agenda (Clarke and Newman, 1997: 20). Concerns with efficiency within existing frameworks gave way to a series of market-based reforms through direct privatisation, the contracting out of services, and even direct charging for services. ‘Managerialism has been a central thread in these changes, taking on

different inflections in each of these ‘stages’ and processes.’ (Clarke and Newman, 1997: 20). Public sector organisations are subjected to ‘the pattern of incentives found within the private sector marketplace’ regardless of any direct exposure to market pressures (Clarke and Newman, 1997: 85). Portrayed as ‘New Public Management’, the development of functional management processes meant cost control, transparent budgets, and decentralisation through quasi-contractual relationships backed up with targets, line management, performance indicators by which to measure achievements and heightened pressure to achieve such targets through increased competition between agencies or firms for service provider roles (Clarke and Newman, 1997, cite Pollit, 1993, and Dunleavy and Hood, 1994). In sum, public organisations are presented as having undertaken ‘large scale transformations from unresponsive paternalistic and leaden bureaucracies to the customer-driven, flexible, quality oriented and responsive organisations of the future.’ (Clarke and Newman, 1997: 38)

### **The impact on the operation of state institutions**

The influence of such a prevalent ideology and policy drive on the state institutions on which it comes to bear can be seen to be manifold and extensive. Managerialism is seen to have ‘left nothing untouched in the way bureaucratic-professional regimes are transformed’ (Clarke and Newman, 1997: 75). In particular three modes of transformation are discussed. Through ‘displacement’ managerialism is seen to supersede bureaucratic-professional judgement through a reshaped command structure focusing on ‘efficiency and organisational performance.’ Alternatively ‘subordination’ is presented as the framing of professional judgements by the requirement to take account of budgets and resources in making decisions, with

‘managerial calculus’ replacing need as the main priority. A more dialogical approach is labelled as ‘co-option’, where attempts to ‘colonise professional discourse’ are evident through the construction of understandings and articulations between professional and managerial concerns. Managerialism is therefore presented as encompassing several functions and meanings. In addition to providing a set of ‘incentives and constraints’ for an agency to act as though within the private sector, managerialism is also seen to contribute to norms, rules of appropriate action, typifications and regularity of thought and practice. Thus managerialism is portrayed as ‘a social process in which actors make meanings and establish norms, conventions and habitual practices.’ (Clarke and Newman, 1997: 86)

It is this creation of norms and meanings by social actors within a specific context that explains variations in application and experience, resulting in public service organisations revealing a ‘contradictory nature of their experiences of change’ (Clarke and Newman, 1997: x). Such variations demand particular empirical enquiry as to the impact of managerialism on our state institutions. It should be clear to the reader that managerialism does not represent a set of ideologies, discourses and practices but is instead ‘enacted by social actors who make sense of the world in a diversity of ways’ (Clarke and Newman, 1997: 84). As a concept in itself managerialism offers only a limited capacity to explain practice and change, and in particular its uneven impact. There is therefore a need to understand the ‘social and cultural processes that shape how people make sense of their worlds.’ (Clarke and Newman, 1997: 85) In particular such an agenda has clear potential to conflict with existing rules and practice within an institution, as professionalism intersects with managerialism rather than being replaced by it. Professionals are seen to maintain a focus on ‘service



goals' rather than organisational effectiveness. Whilst new behaviours may emerge, old values may be retained, with 'occupational knowledge' and 'identities', historically constituted and long established, remaining influential (Clarke and Newman, 1997: 102-3). Furthermore such conflict is only heightened by the increasing emphasis on partnership in policy development and practice and the subsequent enactment of much reform within the 'intersection of different regimes'. Thus 'while managerial ideology has shaped the government agenda and rhetoric of change substantially, it has not necessarily formed the central consciousness of managers' (Clarke and Newman, 1997: 99), traditionally orientated around missions and targets rather than a discourse of effectiveness. That is, consideration must be given to the histories and cultures of the organisations to which this new approach is applied.

### **'Street-level bureaucracy' within a managerialist system**

The logical implication of such an argument is to question the extent to which such a discourse corresponds to or conflicts with that of the practitioners charged with delivering a service in line with changing orientations. The notion of social actors developing meaning and norm suggests a need to focus on the frontline staff as the interface through which managerialism is put into practice in changing relations and interactions between providers and recipients. Such an endeavour is supported by Micheal Lipsky's theorisation of street-level bureaucracies. In his seminal book 'Street –Level Bureaucracy: Dilemmas of the Individual in Public Services' (1980), Lipsky explores the role of the individual in enacting law, policy and provision through the delivery of the services of agencies such as schools, emergency services, welfare departments, 'lower courts', citizens' rights services, and benefit agencies,

seen to have been frequently overlooked by dominant studies of the day. Yet, Lipsky argues, ‘the actions of most public service workers actually constitute the service “delivered” by government. Moreover, when taken together the individual decisions of these workers become, or add up to, agency policy.’ (1980: 3)

I argue that the decisions of street-level bureaucrats, the routines they establish, and the decisions they invent to cope with uncertainties and work pressures effectively become the public policies they carry out. I argue that public policy is not best understood as made in legislatures or top-floor suites of high-ranking administrators, because in important ways it is actually made in crowded offices and daily encounters of street-level workers. I point out that policy conflict is not only expressed as the contention of interest groups but is also located in the struggles between individual workers and citizens who challenge or submit to client-processing. (Lipsky, 1980: xii)

Street-level bureaucrats are therefore charged with the development of techniques to deliver services within limits imposed upon them. Thus Lipsky presents the delivery of services through ‘benign modes of mass processing that more or less permit them to deal with the public fairly, appropriately, and successfully’, or even through ‘favoritism, stereotyping, and rationalizing – all of which serve private or agency purposes.’ (1980: xii)

The need to explore the perceptions and actions of frontline service providers is further increased by the necessary discretion employed by many such professionals in undertaking complex tasks. That is, much of the activity of these (necessarily trained) professionals is ‘too complicated to reduce to programmatic formats’ given the prevalence of necessary ‘responses to the human dimensions of situations’ brought about by the unique circumstances of individual clients. Furthermore Lipsky presents

potential (even likely) variation amongst street-level bureaucrats within an agency, caused by the potential for 'personal standards' to influence judgments. Indeed such variation may be legitimate and welcomed given that 'society does not want computerized public service and rigid application of standards at the expense of responsiveness to the individual situation.' (1980: 23)

In addition it is common for street-level bureaucrats to enjoy 'relative autonomy from organizational authority'. Again Lipsky argues that this is commonly overlooked within assumptions 'that the work of lower-level participants will more or less conform to what is expected of them.' (1980: 16) Instead Lipsky warns us to expect some 'slippage' or 'disagreement with organizational goals' given the realistic possibility that 'workers do not share the objectives of their superiors', and may even hold 'antagonistic' interests given their views, constraints and positions within organisations (1980:16-7). Lipsky also introduces 'the problem of resources', with bureaucratic decision making commonly taking place 'under conditions of limited time and information... constrained by costs of obtaining information relative to their resources, by their capacity to absorb information, and by the unavailability of information.' (1980: 29) As a result 'shortcuts and simplifications', 'unsanctioned by managers of their agencies', are developed 'to cope with the pressure of responsibilities.' (1980:18)

### **An approach to understanding policy enactment**

It is this tension between the development of policy as occurring both in the macro-management of government and the micro-management of individual professionals that guides my study of the local implementation of the BSS initiative. As such the

following chapter outlines the correspondingly twofold theoretical approach I have taken, utilising the traditions of complexity theory and cultural-historical activity theory to both reiterate the importance of an empirical understanding of managerialism through direct observation and investigation, and to explore practical applications of their key concepts in evaluation of complex policy interventions.

Complexity theory is seen to provide both a meta-narrative through which to describe and understand the world in general and social policy development in particular, through the concept of a policy landscape, and a basis for practical application to policy evaluation, through the concept of the complex adaptive system. In particular this framework will be seen to provide an understanding of managerialist policy development. In 'Complexity theory and the new public management' Tim Blackman (2001) explores the potential of complexity theory to 'inform a more realistic and democratic approach to achieving policy goals than the audit culture of performance management.' Despite a 'common focus on monitoring and feedback in steering the behaviour of organisational systems', complexity theory and the new public management diverge in their approaches to local control and subsequent learning.

New public management relies heavily on the audit culture, based upon measurement against performance objectives defined by clear responsibilities and underpinned by cost and output indicators. Implicit in this endeavour is an assumption that comparable standards are possible throughout the country. Performance management targets therefore 'define a future state that is expected of an organisation when its performance is compared with other organisations.' (Blackman, 2001) Managerialist social policy then represents a means to guide the practice of state institutions in an

attempt to control outputs or service responses by putting in place constraints and incentives or motivations by which to govern behaviour. To this end poorly performing authorities are ‘named and shamed’ and threatened with sanctions.

In contrast complexity theory offers a ‘whole systems’ approach that recognises the influence of environment such that ‘organisational performance is not just as a function of organisational capability but also of the types of environment in which organisations work.’ (Blackman, 2001) Such a recognition suggests the need to understand context in measuring performance and, more importantly, in developing a better understanding of how the policy aim might be better realised. Learning from the development of public policy therefore requires an understanding of how a system interacts with its environment and how key parameters within this environment might be altered. It also implies the potential when developing such managerialist policy of understanding, and where possible attempting to control, key contextual parameters.

The principles of complexity theory are subsequently seen to guide my use of activity theory as a framework for empirical enquiry. By employing the notion of motivated, object-oriented activity, activity theory provides the basis from which to explore situated practice and policy development and to construct a meaningful and representative unit of analysis, unrestricted by structure or institution. The object represents the problem space, or ‘what is being worked on’. As such I argue the value of activity theory to lie in its focus on the actual endeavours of the people charged with implementing the policy as opposed to the policy itself. By focusing on the object we are able to track the changing conceptualisation of the problem space as it moves through the various settings and stages that influence the operationalisation of

the policy. In addition the associated framework by which to understand the activity system provides a means to explore the range of influences on this development.

Such a focus enables a particular aim to be placed within the context in which it is attempted to be achieved. Through this approach I argue that a seemingly simple managerialist aim to address a particular statistic or objective, presented as though discrete and isolated, is in fact enacted within a complex system where such an aim cannot be disentangled from the web of other competing aims, pressures and influences. Such a managerialist aim will be seen to represent an idealised, abstract object, forever on the horizon, sought after but never reached, and instead replaced by a series of material and immediate problems to be dealt with in order to work towards this eventual goal. Whilst managerialism might provide the ultimate endpoint to which a system might aim, the immediate environment defines the context in which this goal is to be achieved, bringing particular problems that must be overcome and constructing the basis upon which the system must operate. Through a focus on object as opposed to objective I therefore look beyond the formalised, officially-stated account of the scheme towards an understanding of how this translates into day-to-day functioning. Consideration of daily activity allows me to evidence the apparent contradictions between this activity and the object, as provided by national policy, and thus to understand the impact of context on intention. In doing so I will show how the aims as given by the government and Youth Justice Board (YJB), in making such schemes a statutory requirement and funding dependent on meeting given standards, are necessarily morphed or circumvented in order to address the more immediate concerns of the community of interest and its influential stakeholders. From this perspective activity theory presents a means to learn about the ‘distance travelled’

towards the ultimate aim of the policy intervention and the ‘journey’ in getting there allowing for an understanding of the obstacles to enactment and the solutions sought and found within the locality. Such an approach appears to offer much to government policy development in exploring how aims might be better achieved, the support that might be offered and the unanticipated difficulties that might be resolved in order to empower local organisations. In addition activity theory offers a management tool that can be utilised at a local level to understand the tensions and contradictions impacting upon practice. Indeed Engeström and his colleagues at the Center for Activity Theory and Developmental Work Research (CATDWR, website) have applied activity theory in such a way in working with a range of businesses and organisations by ‘surfacing’ the tensions and contradictions within the system that must be overcome if the collective object is to be realised. However such a tool has seemingly yet to be offered to public service institutions in implementing policy.

Such an application of activity theory has been questioned, if not directly challenged. In a recent seminar at Birmingham University, David Bakhurst (2004) argued that broadening the use of activity theory beyond its more traditional functions might provoke criticism that its framework had become too general to be useful in application to anything specific. Activity theory might therefore be seen to be either: ‘Too good to be true, or too true to be good’. Through the focus of this thesis I seek to challenge this (hypothesised) critique, exploring the application of activity theory to new areas of empirical study.

Bakhurst (2004) also warned those applying the framework to:

Be very cautious of given, stable structural representations where there is really flux, dynamism, reflexivity, and transformation.

Through a dual consideration of activity theory and complexity theory I am explicit in addressing this apprehension. Such a consideration will be seen to highlight the constant interaction of system and environment, as well as the intricacy required in any conceptualisation of activity. Whilst both complexity theory and activity theory are developed from a strong tradition of application, I believe the amalgamation of these approaches to represent a new undertaking. As such chapter 2 also seeks to ensure the compatibility and mutuality of the two theoretical frameworks and offers points of reflection for each perspective based on the key components of the other. The application of this theoretical framework to the study at hand is then laid out in chapter 3, building upon principles of the empirical use of activity theory established in the studies of others as have guided my various layers of enquiry undertaken and the methodology used. My aims are placed within the requirements of my formal role as the evaluator of the local BSS scheme in describing the stages undertaken in my research and the constraints within which I was forced to operate.

Having established the basis of my approach chapter 4 then applies the concept of a policy landscape to the managerialist pursuit of New Labour, firstly with regard to the youth justice system in general and then to the remand process in particular. The central activity system of the study is then introduced, with the object represented in its idealised perception as informing the initial development of the scheme within the locality in response to the statutory requirements laid out by the Government and enforced by the YJB. This discussion provides the structure for the development of chapters 5 to 7, outlining the various actors and settings to be explored. Chapter 5



places the development of the scheme in the context of the YOT in which it is based, examining the fractal nature of the scheme embedded within a bigger and more complex system, at times contradicting the aims and requirements of the scheme itself, yet continuously tied in co-evolution to it. In chapter 6 the development of the scheme is then further placed within its daily interactions with a variety of external stakeholders and systems within the youth court and its associated formal liaison groups, to illustrate how the focus and objectives of the scheme are necessarily shifted in order to placate, appease or embrace the perspectives and aims of those with whom they need to interact. Chapter 7 then describes the response of the central system, exploring the seeming impact on the core activity of the team, through a consideration of the assessments of the suitability of each young person for bail carried out by both YOT officers and magistrates, and the subsequent nature of packages of support delivered. It then concludes by once again considering the object of the central team, summarising how it has altered, shifted, or been reconceptualised, and the seeming impact of such a transformation on the managerialist policy objectives of central government and the YJB. In exploring the development of the local scheme in the contested spaces of the YOT and youth court in which it operates, within which it is relatively powerless (at least at the outset), I am able to demonstrate the impact of these development stages on the principal objectives of the scheme, and in particular how the settings in which the scheme has had to develop locally have inhibited the successful realisation or achievement of the stated intentions and government targets.

Finally chapter 8 offers some reflections on the theoretical framework, in particular on the apparent success or otherwise of the amalgamated theoretical approach, and its application to an understanding of and learning from local policy implementation. In

addition this approach is argued to offer a managerialist tool, providing a means to understand local context, to surface tensions and contradictions that might hamper development, and to consider solutions to these emergent problems in new forms of activity.

## **Chapter 2. Tracking change in complex adaptive systems: the application of activity theory to the study of social policy development**

The introductory chapter presented the development of bail and remand policy within the youth justice system as incorporating a managerialist agenda alongside practitioner perspective and interpretation, combining idealised policy objectives and situated contextual practice. It is this tension between the development of policy as occurring both in the macro-management of government and the micro-management of individual professionals that guides the construction of my theoretical framework as I seek to trace the implementation of managerialist policy aims and intentions within the local context. To this end I sought the development of an approach that allowed me to understand change in terms of its cause and its effect upon the development of policy, both in intent and practice. As such it offers opportunities to explore how the aims of government policy are translating into activity amongst those responsible for local implementation and service delivery, and to understand the tensions and contradictions impacting upon practice. The following discussion therefore outlines the correspondingly twofold theoretical approach I have taken, utilising the traditions of complexity theory and cultural-historical activity theory to both reiterate the importance of understanding managerialist policy intervention at the level of local implementation, and to explore practical applications of their key concepts in the evaluation of complex policy interventions.

Complexity theory is understood and utilised as a meta-theory or ontology through which to make sense of the social world. In the discussion below I outline recent developments in the social sciences that to an extent mirror those of the natural and physical sciences. In particular I make use of conceptions of the systems seen to

constitute the social world and subsequently explore the tools available to understand such systems in terms of their inseparability from their environment, and how they change and develop. Complexity theory offers a ‘whole systems’ approach incorporating both system and environment and recognising the influence of environment on organisational performance and development. Such an approach allows for an understanding of how a system interacts with its environment and is altered accordingly. In doing so it provides the means to understand how key parameters within this environment might themselves be altered or controlled in order to improve the performance of the system towards the policy aim. Such a focus enables a particular aim to be placed within the context in which it is attempted to be achieved.

As such complexity theory is seen to establish the ‘rules’ by which my study developed, guiding my line of enquiry by highlighting the important factors in exploring how social policy is created, developed and enacted. The basis for investigation derived from complexity theory will be seen to permit, and indeed require, the adoption of additional theoretical and methodological tools in order to undertake the necessary elements of enquiry. In short complexity theory suggests the need for pluralistic, hermeneutic approaches, able to understand change at each level of policy development and to explain influences both within and outside of the system under consideration. In the second section of this chapter I therefore outline the theoretical approach I have taken in order to answer these requisites and constraints: activity theory.

Harry Daniels describes activity theory as an ‘attempt to theorize and provide methodological tools for investigating the processes by which social, cultural, and historical factors shape human functioning.’ (Daniels, 2004: 121) In the following discussion I will develop an argument for why such a focus on the concept of activity and the analytical tools it provides offers us a framework for understanding change within a system by ensuring explicit consideration to individual, system and environment. Whilst understandings of complexity will be seen to allow me to conceptualise the frame of my study it is activity theory that provides the means to construct, identify, and thus explore such systems. Through the concept of collective object-oriented activity I argue that it is possible to explore the development of policy and practice, adopting a meso level of enquiry that combines the influence of structure, rules and law with individual disposition, attitude, experience and ultimately action. This approach therefore provides a conceptual and methodological basis from which to explore situated practice and policy development and to construct a meaningful and representative unit of analysis, unrestricted by structure or institution. As such I argue the value of activity theory to lie in its focus on the actual endeavours of the people charged with implementing the policy as opposed to the policy itself. By focusing on the object we are able to track the changing conceptualisation of the problem space as it moves through the various settings and stages that influence the operationalisation of the policy.

In addition the associated framework by which to understand the activity system provides a means to explore the range of influences on this development. As such the proposal of environment affecting an adaptive system is made real by a consideration of the varying types and causes of contradiction that might occur within a system, and

in interaction between the system and the neighbouring systems constituting its immediate environment. The notion of contradiction in activity causing transformations or change and development in social systems, in particular with regard to the reconceptualisation of the object of the system, will further be seen to provide the means to trace the development of the social system and thus the implementation of the policy. Finally the concept of a boundary will provide a means to understand how systems interact with their environment, and thus to link contextual influence to the activity of street-level bureaucrats in enacting managerialist policy.

Whilst both complexity theory and activity theory are developed from a strong tradition of theory and application I believe the amalgamation of these approaches to represent a new undertaking. The chapter therefore concludes by explicitly readdressing the challenges of complexity theory in relation to this proposed framework. In order to do so I ensure the compatibility of these two theoretical traditions through an examination of the ‘principles’ of activity theory as outlined by its current main protagonist Yrjö Engeström. Whilst detailed and extensive, this discussion is necessary in order to both establish the appropriateness of the theory to the endeavour and compatibility with the world view purported by the complexity ontology, and to introduce the range of tools and concepts I employ in the empirical enquiry to explore the system and its environment.

### **A need for a new science?**

The application of classic mechanics to the physical world has long been seen to be limited. Newtonian laws are known not to be universally true and furthermore to be generally false (Dupre, 2001:165; Nicolis and Prigogine, 1989: ix, cited in Byrne,

1998: 2). Newton's laws of motion indicate that the future (and by extension the past) state of all molecules can be determined if the current state of all molecules is understood. Of course in reality we do not and can not know the current position of all molecules in the universe (nor indeed in a small enclosed space!), and thus are always left with an 'unknown', commonly constructed as 'chance', that prevents deterministic calculation. Whilst this does not prohibit the existence of universal laws governing for instance the movement of particular particles (for example, Boyle's law), the applicability in practice is problematic and thus any calculation (however accurate) represents only an approximation of reality. As a result certainty, 'the foundation of linear determinism' (Byrne, 1997), is rejected. Furthermore, in October 2004, the Guardian newspaper reported the arrival of a 'Brave new physics' based on the recent building of the large hadron collider, or 'atom smasher', beneath the Jura Mountains. Should this experiment be successful 'it is expected to provide the first experimental evidence that the model, which has underpinned their [physicists'] entire subject since it was invented, is wrong.' (Jha, 2004) This model, derived from post-war quantum physics, is now thought to hold for no more than 5% of the matter in the universe. Thus, just as classical, Newtonian physics was found to represent only an approximation to an explanation of a limited amount of the world, quantum physics now also prepares to be re-written.

This search for a more sophisticated understanding of the physical world is paralleled by similar advances in the social sciences. Given the false assertions of Newtonian laws it is argued that 'The social science thus pursued a vision of a 'Physics that Never Was'' (Sanderson, 2002: 5) (although of course any existence of 'physics-envy' amongst social scientists past or present is hotly disputed!). The increasingly

complex structures of the social world are now seen to ‘defy standard positivist canons of description, prediction and explanation’ (Reed and Harvey, 1992: 359, cited by Sanderson, 2002: 3). Thus we are presented with non-linear, non-simple systems, seen to make up the majority of the social world.<sup>1</sup>

Ian Sanderson reports one response to this realisation to have been the postmodern perception of the ‘messiness of the human predicament’, as a counter to traditional rationalist attempts to ‘ground policy action on evidence-based learning founded upon theoretical knowledge’. He then portrays a consequent rationalist response as the ‘search for a middle ground between ‘foundationalism’ and ‘anarchic relativism’ that provides an adequate evidential basis for action to address social problems.’

(Sanderson, 2002: 1) To this end complexity theory developed as a meta-theory for explaining reality, used as a basis for tools on which theories for empirical investigation can be built. This new paradigm, as it is branded by Prigogine (1996) amongst others, is therefore presented as more relevant to today’s social world, encapsulating the disorder, diversity, instability and temporality of systems, as well as the non-linear relationships and the open nature of the boundaries between them.

Furthermore traditional notions of order and disorder as ‘dichotomous and opposites’ are seen to be replaced ‘by a conception of them not as antagonistic and fixed states but rather as stages in a process of dynamic and transformational becoming.’ (Byrne, 1997)

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<sup>1</sup> In fact the neatness of such an argument should be challenged by the realisation that Newtonian mechanics are not as linear as is popularly assumed and conveniently argued amongst social scientists. As I was brusquely reminded by former classmates with whom I endured numerous hours of undergraduate mathematical lectures, Newton’s ‘linear thought’ is in fact premised on non-linear equations to the extent that ‘many examples in chaos theory come from Newtonian mechanics, so that the study of chaos represents in fact a renaissance of Newtonian mechanics as a subject for cutting edge research.’ (Sokal and Bricmont, 1998: 135) My argument regarding the determinism of Newtonian laws remains unchallenged however!



Complexity theory is presented as compatible with a realist view of the world.

Realism asserts that what we observe is real and is the product of complex causal mechanisms. This fits neatly with the complexity theory account of nature and society as open and historically constituted, as hierarchical yet complex, as non-reductive yet rationally explicable. Complexity theory therefore represents a retreat from the dominance of nature, working with the reality of nature rather than trying to 'wring' truth from it.

Complexity/chaos offers the possibility of an engaged science not founded in pride, in the assertion of an absolute knowledge as the basis for social programmes, but rather in a humility about the complexity of the social world coupled with a helpful belief in the potential of human beings for doing something about it. (Byrne, 1998: 45)

It is seen as the potential means to 'retain an optimism about our capacity to understand and change social systems' (Sanderson, 2002:1), by allowing for a portrayal of the inherent 'mixture of order and disorder, regularity and irregularity' without resorting to analogies of 'complete muddle, mayhem and madness' (Parker and Stacey, 1994, cited by Owen, 1995). Complexity theory therefore provides a challenge to traditional thinking through the notion of the 'complex system'. In particular Sylvia Walby (2003: 6) points to 'two inter-related features' of the reconceptualisation of social systems brought about by complexity-based thinking:

first, the nature of a system as self-organising together with the system/environment distinction; and secondly processes of change variously conceptualised as non-linear, as co-evolution of complex

adaptive systems within changing fitness landscapes, path dependency and saltation, punctuated equilibria and waves.

It is in these two features that I derive my approach to exploring local policy development. The following discussion begins to construct my representation of system within environment as the basis for understanding change and therefore the impact of context on policy implementation.

### **Systems and Environment**

Complexity theory ‘encourages an outward-looking perspective. It brings into the frame the environment as well as the system’ (Blackman, 2001), whilst making a distinction between the system and its environment, such that ‘each system takes all other systems as its environment. This replaces the rigid notion of a hierarchy of sub-systems by a much more fluid conception of the mutual impact of systems.’ (Walby, 2003: 7) As such systems are conceptualised as separate from their environment ‘while recognising that the environment actually comprises other systems, so the picture is one of systems *immersed in each other*.’ (Blackman 2001, original emphasis) Thus the notion of interconnectedness replaces the assumption of nested systems within society.

Barnes et al (2003: 269) suggest that an understanding of complex systems to require a recognition of context as ‘part of the system and not external to it’, such that the system is ‘subject to change as a result of actions or activities beyond the scope of its programme’. Citing Medd (2001) they argue that ‘organisations cannot be understood in isolation from context; organisations cannot be understood in isolation from history’. Thus we might observe ‘nested systems’ but these ‘do not have discrete

boundaries'. Instead they 'intersect and interact': 'the local can influence the global rather than the global determining the local' (Byrne, 2001). The boundaries of a complex system therefore connect it to its environment 'rather than separate it from it' (Blackman, 2001, citing Blackman, 2000) with systems seen to be open and reliant on an ongoing interaction with their environment in order to maintain their existence and focus. Blackman (2001) among others considers the notion of the environment of a given system as a 'fitness landscape', providing 'a set of parameters relevant to the behaviour of the given system'. Within this landscape there are seen to be 'attractors embodying a particular combination of parameter values' that describe or control the long-term qualitative behaviour of a given system. That is, a particular context within the landscape or environment in which a system exists is seen to lead to the system operating in a particular way.

### **Explaining change in complex systems**

Given this understanding of the interrelationship between internal elements of systems and between system and environment we are able to conceptualise how change might occur in complex systems: an endeavour of particular importance in the study of the development of social policy in the context of attempted managerialist control over practice. In the following discussion I highlight numerous aspects of complexity thinking that inform my understanding of how change occurs in social systems and are therefore prevalent in the subsequent development of a methodological approach.

The concept of complex systems borrows much from the notion of chaotic systems as originally developed in relation to the natural sciences, as a result of discoveries in the field of nonlinear dynamics.

Nonlinear dynamics is the study of the temporal evolution of nonlinear systems. Nonlinear systems reveal dynamical behavior such that the relationships between variables are unstable. Furthermore, changes in these relationships are subject to positive feedback in which changes are amplified, breaking up existing structures and behavior. These changes may result in new forms of equilibrium; novel forms of increasing complexity; or even temporal behavior that appears random and devoid of order, the state of ‘chaos’ in which uncertainty dominates and predictability breaks down. (Elliot and Kiel, 1996: 1, cited in Sanderson, 2002: 3)

Whilst notions of ‘chaos’ are suited to natural systems, Marion (1999: 6-7) argues that notions of complexity are better suited to social systems, incorporating concepts of ‘adaptation, deliberative behavior, intelligent behavior, reproduction and evolution’ implying some sort of stability and inertia to be possible. Complex systems are seen to achieve ‘a special kind of balance’ between order and chaos such that ‘the components of the system never quite lock into place and yet never quite dissolve into turbulence either.’ (Smits, website) This state of balance is referred to as the ‘Edge of Chaos’ (Waldrop, 1992: 12).

Complex systems are therefore presented as ‘dissipative’, in the same vein as is outlined in the study of non-linear thermodynamics (Prigogine 1996). By considering a system to be thermodynamically open, it is perceived as able to assimilate large amounts of energy from its environment and convert this into structural complexity. This process implies an irreversibility, or evolutionary process (Nicolis, 1995). Few non-linear equations can be integrated. This means that differentiation (which allows for a momentary understanding of the state of a system) cannot be reversed to give an account over time. In lay terms, just because we can understand a system (portrayed

in this terminology as a complicated equation) at a given moment does not mean we are able to predict how it might alter over time. Complexity theory therefore avoids simple notions of linear determinacy (if A happens then B happens) as well as notions of random process (where anything can happen). The dismissal of both the randomness of mathematical stochastic modelling and the certainty of linear determinism is central to Poincaré's conception of deterministic chaos (Byrne, 1997).

If we consider the basis of mathematics to be axiomatic systems, able to model the world such that variables provide adequate description of causal relationships, in principle we are able to model forwards for prediction (through integration) and in reverse (through differentiation). Linear laws express, through mathematical equations, rules which enable us to predict the future state of a system given its present state and the effects of changes in the values representing causal factors: i.e. if  $x$  changes by  $a$  and  $y$  by  $b$  then  $z$  changes by  $c$ . More exactly we have the supposition that effect of  $a$  and effect of  $b$  is equal to the effect of  $a$  and  $b$ .

However the reality of chaos is seen to imply that: 'If we cannot measure precisely enough in terms of the initial conditions, then in any system that is non-linear our capacity to predict very rapidly breaks down.' (Byrne, 1998: 59) Similarly the notion of systems as evolutionary, together with the recognition of the influence of initial conditions and in particular those immeasurable and therefore labelled as 'chance', presents change over time as irreversible and systems as therefore 'essentially irreversible' (Byrne, 1997). This point is further illustrated by Henri Poincaré (cited in Campbell and Rose 1983: vii, and further cited by Harvey, 2001):

A very small cause which escapes our notice determines a considerable effect that cannot fail to see, and then we say that the effect is due to chance. If we knew exactly the laws of nature and the situation of the universe at the initial moment, we could predict exactly the situation of that same universe at a succeeding moment. But even if it were the case that the natural laws had no longer any secret for us, we could still only know the initial situation approximately. If that enabled us to predict the succeeding with the same approximation, that is all we require, and we should say that the phenomenon had been predicted, that it is governed by laws. But it is not always so; it may happen that small differences in the initial conditions produce very large ones in the final phenomena. A small error in the former will produce an enormous error in the latter. Prediction becomes impossible, and we have the fortuitous phenomenon.

Furthermore in non-linear systems we cannot add effects together, as a combination of two effects may give rise to new actions through multiplicative relationships between variables and possible higher order interactions. This is known as cooperativity – *a* and *b* happening also causes *c* to happen. In short, if we miss a cause or factor its effect is often put down to chance. Complexity theory rejects this seeing it as failed measurement in initial conditions.

A further implication of a complexity approach to system development is that ‘The whole contains things which are indeducible from a description of any part of it.’ (Byrne, 1998: 59) Systems have properties ‘which are not to be accounted for either by the elements into which they can be analysed (i.e. they are holistic), or by the content of their precursors.’ (Byrne, 1998: 15) Barnes et al (2003: 276) emphasise ‘open systems in which different elements interact dynamically to exchange information, self-organize and create many different feedback loops, where relationships between causes and effects are non-linear, and where the system as a

whole has emergent properties that cannot be understood with reference to the component parts.’ Thus the theory is anti-reductionist, believing you cannot derive the complex from the less complex and can only understand the simpler in terms of its origins in the more complex.

The application of this abstract thinking to empirical enquiry has led to the emergence of two interpretations, loosely defined as ‘schools’ of complexity theory within the social sciences. The divergence of these approaches is evidenced in two different interpretations as to how change is analysed and understood, both of which will be seen to offer insight into the potential impact of environment on system and therefore context on local policy implementation.

The work of the Santa Fe Institute in California portrays a gradualism through the co-evolution of complex adaptive systems, as opposed to the more ‘simple notion of single directional impact’ (Walby, 2003: 3). Given the dual understanding of autopotetic systems within an environment, the ‘notion of an entity having a simple impact of another entity’ is replaced by the concept of mutual impact, by which ‘systems co-evolve as they complexly adapt to their environment’ (Walby, 2003: 8; cf. Kaufmann 1993, 1995). We therefore see systems evolving so as to adapt to the fitness landscape in which they exist. If a change occurs in the parameters of the landscape the effect may be to shift or perturb the system such that it moves away from its particular attractor to an alternative one. In addition the co-evolution of system and environment means changes in the system must be seen to result in change in environment or landscape. Given their interconnectedness, as a system evolves it necessarily changes the landscape for the systems that constitute its environment.

‘This alters the opportunities faced by other systems, with complex consequences for their development.’ Walby (2003: 9) Taken to its logical extreme, everything and everyone is seen to be a part of a vast non-linear web of connections. This is popularly illustrated through the ‘butterfly effect’ which proposes that the flapping of a butterfly’s wings in August might influence the course of a hurricane in September on the other side of the world. Such mutuality is seen to ensure that co-evolution is not instantaneous but takes place over a period of time as internal processes react to the external pressures of change in the environment (Walby, 2003: 9, citing Luhmann, 1995). Again we see the social mirroring the natural as evolution and adaptability occurs over time. Thus systems are seen to adapt to each other, rather than one impacting on another, with this adaptation defined by the internal relations and processes of each system, and therefore likely to be complex. In doing so systems are assisting in the reproduction of other systems, defined as ‘coupling’ by Maturana and Varela (1980). In responding to its environment, a system changes internally, and, as the environment is composed of other systems, this too changes in response. As species develop so as to adapt to their environment so systems are seen to learn from experience and change accordingly. Such an interaction and responsiveness has led to the labelling of such systems as complex adaptive systems (Walby, 2003: 8, citing Holland 1995, 2000 and Kaufmann 1993, 1995).

In contrast the work of academics such as Prigogine, Gould and Eldridge, collectively referred to here as Deterministic Chaos Theory in line with David L. Harvey’s description (2001), highlights the possibility of sudden and dramatic change through the ‘notion of saltation, of sudden, critical turning points, in which small changes, in the context of complex systems, give rise to bifurcations and new paths of



development that are self-sustaining.’ (Walby, 2003: 3) Rather than a focus on gradualism through co-evolution, there is instead a concern with change that is ‘sudden and precipitous’. A system is seen to experience ‘punctuated equilibria’ (Eldridge 1985, 1986; Gould 1989, Walby, 2003:15), involving periods of little transformation followed by abrupt or sudden changes that ‘may lead to different paths of development’ (Walby, 2003: 12). This suggests an appreciation of the various potential paths of development and an emphasis in analysis on the point at which these paths can be seen to diverge.

At these bifurcation points, if *a* happens then *b* or *c* happens depending on small initial variations in the form and circumstance of *a*. Small changes in causal elements are seen to cause potential changes in other particular aspects of the system or in the system as a whole, with several outcomes possible. Within this evolutionary process new systems are seen to appear rather than emerge, as it is not gradualistic, and to have properties ‘which are not to be accounted for either by the elements into which they can be analysed (i.e. they are holistic), or by the content of their precursors.’ (Byrne, 1998: 15) Once more, therefore, there is the assertion that you cannot derive the complex from the less complex and can only understand the simpler in terms of its origins in the more complex. Similarly temporality must be considered, with the possibility that change within a system may occur long after an alteration to the environment. Thus the process of causality and change is perceived as non-linear, implying instability in the effect of particular variables or factors over time, and therefore unpredictability.

### **Opposing or Complementary Approaches?**

Despite their varying focus, David L. Harvey (2001) argues that these two approaches should be seen as complimentary rather than as in opposition. Although studying complex adaptive systems (CAS), he is clear as to how Deterministic Chaos Theory is useful to this approach, and vice versa, in particular offering some link between the concepts of punctuated equilibria and co-evolution. Harvey (2001) presents both approaches as essentially based on the idea of ‘a radical transformation of the environment’ as ‘the stimulus for an emergent evolution of internal hierarchy within the CAS’. The Santa Fe ‘school’ is described as stressing the importance of ‘indigenous learning and internal development of new ‘schema’ from within the CAS itself’. This suggests it is the means by which the system reacts and internalises any changes or influences from the environment that is important and goes alongside the gradualism and co-evolution of system and environment. Co-evolution is seen as self-perpetuating, with change within a system seen to create the opportunity for more change. Harvey concludes that we should therefore not try to separate the Santa Fe approach completely from that of Prigogine, Gould or Eldredge. Both schools focus on ‘nonlinear systems and their evolutionary elaboration over time’, but with a different concentration of energies. Whilst the Santa Fe school focus on mathematical modelling of the internal system, Prigogine would use models from ‘statistical, non-equilibrium thermodynamics to study the external system of complex systems.’ Thus rather than being contradictory, these are potentially ‘complementary positions’.

Harvey further argues for the complementary nature of the two perspectives in considering a system as ‘functionally and structurally differentiated into internally replicative and externally oriented adaptive subsystems’ (2001). Thus the CAS

perspective is seen as useful in examining the ‘fundamental modular mechanisms’ of internal construction, with the chaos perspective useful in examining ‘the molar, totalizing processes’ of evolutionary transformation through positive and negative feedback mechanisms. He sees the two approaches as ‘reconciled’ through the punctuated equilibria framework for analyzing evolutionary processes (Gould, 1989; Eldredge, 1985a, 1985b): ‘an integration of convergent perspectives to form a single coherent theory of nonlinear evolution via chaos/complexity’ (2001). This would seem to suggest also that a mixture of processes cause evolution and change. This allows for co-evolution and gradualism to exist alongside sudden change caused by reaction to an external influence. Different paths might then be possible from very similar initial conditions. This is justified through reference to Prigogine (1996) who (himself citing Gould, 1989) points to the ‘multiplicity of evolutions’ that has left bacteria ‘basically the same since the Precambrian era’, whilst amongst the variety of apes some have evolved whilst others have not. Prigogine argues that given such variation in the natural world we might and indeed do observe similar development within the social world.

### **Evaluating complexity**

Although highly abstract and drawn from a wide variety of academic traditions, the application of these new perspectives on system/environment interaction to social policy analysis and development offers important messages for any attempt to achieve policy goals. Whilst much of the above discussion suggests limitations in what is possible in the explanation and subsequent of complex systems through social research it also provides a basis for moving forward. The unique position of a system within its particular environment requires local ‘reflexive monitoring’ and ‘social

learning' (Sanderson, 2000, cf. Sanderson, 2002, Kauffman, 1995), challenging the current utilisation of research. Sanderson argues that evaluation research is being used conceptually rather than instrumentally, and thus 'reaches policy makers in unsystematic and diffuse forms', 'percolating' into the policy arena as opposed to methodically informing policy development (Sanderson, 2000 citing Weiss, 1995). He believes evaluation methodology to be based on assumptions regarding policy formation and implementation as a linear process, suggesting an ability to determine or guide eventual outcomes through policy design in an assumed rational cycle of 'goal specification, design, implementation, evaluation, redesign'. The recognition of instability and disorder within complex systems has led Rescher (1998: 203-4) to argue for 'a more modest, empirically-orientated programme of philosophical enquiry, which forsakes the search for universal laws for a less ambitious concern with 'limited and contingent generalities' (Sanderson, 2002: 5).

Such an endeavour is seen to require an 'experientially oriented' approach, rather than a focus on 'normal' or 'ordinary cases'. Instead we must seek to 'reconstruct the particular constellation of structured choice and accident that led to the present reality.' (Reed and Harvey 1992, 364) Thus the importance of qualitative investigation, or what Reed and Harvey (1996: 310) call 'the gaze', is stressed in understanding the local domain of a bifurcation point. Without this no true quantitative description can be developed (Byrne, 1998: 61). Sanderson (2002: 10) argues 'that we need to revise our notion of 'theory' in the context of complex systems, forsaking the 'ontic' conception of explanation through the discovery of causal processes and mechanisms in favour of the 'semantic' view of theories, which focuses on the development of models (cf. Kellert, 1993).' Consequentially it is not

enough to apply objective scientific knowledge based on ‘instrumental rationality’: ‘social scientific knowledge (which is general and theoretical) cannot provide the primary basis for evaluation judgements under conditions of ‘plurality, uncertainty and difference’.’ (Sanderson, 2002: 10, citing Schwant 2000b) In order to do this, Sanderson (2000) draws on Bhaskar’s critical realism (1975/1997, 1979/1989, 1986, 1989) and, more specifically, social naturalism, in suggesting three levels of enquiry: society (macro), individual (micro) and structures/institutions (meso). Any evaluation would therefore need to focus on all layers of a system concurrently; a ‘multi-level approach, recognising that processes of change operate interdependently at individual, group and whole system levels and that emergent phenomena cannot be reduced to analysis at a ‘lower’ level.’ (2002: 14) This meso-level is seen to incorporate or institutionalise the rules, norms and motivations, as developed at the macro level, whilst also providing the means by which individuals are able to reproduce and change this. For example, processes must be seen to be inherently political and shaped by rules, power structures, conventions and traditions. Similarly the importance of tacit and experiential practitioner knowledge must be appreciated (Sanderson, 2002; cf. Toulmin, 2001).

The particular application of such an approach to the understanding of managerialist policy development should be clear. New public management represents a means to guide the practice of state institutions in an attempt to control outputs or service responses by putting in place constraints and incentives or motivations by which to govern behaviour. Currently this approach relies heavily on the audit culture, based upon measurement against performance objectives defined by clear responsibilities and underpinned by cost and output indicators. Implicit in this endeavour is an

assumption that comparable standards are possible throughout the country.

Performance management targets therefore ‘define a future state that is expected of an organisation when its performance is compared with other organisations.’ (Blackman, 2001) In contrast complexity theory offers a ‘whole systems’ approach that recognises the influence of environment such that ‘organisational performance is not just as a function of organisational capability but also of the types of environment in which organisations work.’ (Blackman, 2001) Such a recognition suggests the need to understand context in measuring performance, and therefore for enquiry at the local level in developing a better understanding of how the policy aim might be better realised. Learning from the development of public policy must include an understanding of how a system interacts with its particular environment in order that the key parameters within this environment might be realised and subsequently altered.

The basis for enquiry laid out above clearly permits, and indeed actively calls for the adoption of a wide range of different theories and methodologies, in order to examine the workings at each level of enquiry. In short complexity theory suggests the need for pluralistic, hermeneutic approaches, able to understand change and its explanatory influences both within and outside of the system. In the remainder of this chapter I will outline the theoretical approach I have taken in order to answer these requisites and constraints, namely cultural-historical activity theory. Harry Daniels describes activity theory as an ‘attempt to theorize and provide methodological tools for investigating the processes by which social, cultural, and historical factors shape human functioning.’ (Daniels, 2004: 121) In the following discussion I will develop an argument for why such a focus on the concept of activity and the tools it provides

offers us a framework for understanding change within a system by ensuring explicit consideration to individual, system and environment, before concluding by explicitly readdressing the challenges of complexity theory in relation to this proposed framework. I begin however with a brief history of how the concept of activity has developed from within the Marxist tradition.

### **The development of activity theory**

Karl Marx first developed the notion of ‘sensuous human activity’ in response to his assertion that:

neither mechanical materialism nor idealism will do. Mechanical materialism eliminates human agency, and idealism puts it in the head or soul of the individual. What both are missing is the concept of activity that overcomes and transcends the dualism between the individual subject and objective societal circumstances. (Engeström and Miettinen, 1999: 3)

This is clearly rooted in Marx’s definition of labour:

Labour is, in the first place, a process in which both man and Nature participate, and in which man of his own accord starts, regulates, and controls the material re-actions between himself and Nature. He opposes himself to Nature as one of her own forces, setting in motion arms and legs, head and hands, the natural forces of his body, in order to appropriate Nature’s productions in a form adapted to his own wants. By thus acting on the external world and changing it, he at the same time changes his own nature. He develops his slumbering powers and compels them to act in obedience to his sway (Marx, 1867/1954:173-4, cited by Tolman, 1999: 71)

The advance of activity theory can be seen as an attempt to develop a new psychology based on this Marxist philosophy. In the first instance Lev Vygotsky developed a

theory of individual action through cultural mediation, in order to overcome the perceived inadequacies of contemporary psychology in explaining the relationship between the individual and society. He developed a framework to allow us to begin to understand how people are making sense of their world. This sense-making is seen to occur through the dual existence of consciousness and activity, such that the human mind ‘comes to exist, develops, and can only be understood within the context of meaningful, goal-oriented, and socially determined interaction between human beings and their material environment.’ (Bannon, 1997)

These interactions are seen to be culturally mediated ‘in the sense that humans use concepts and tools that the society has developed during its history.’ (Virkkunen and Kuutti, 2000: 298) To quote Vygotsky (1999):

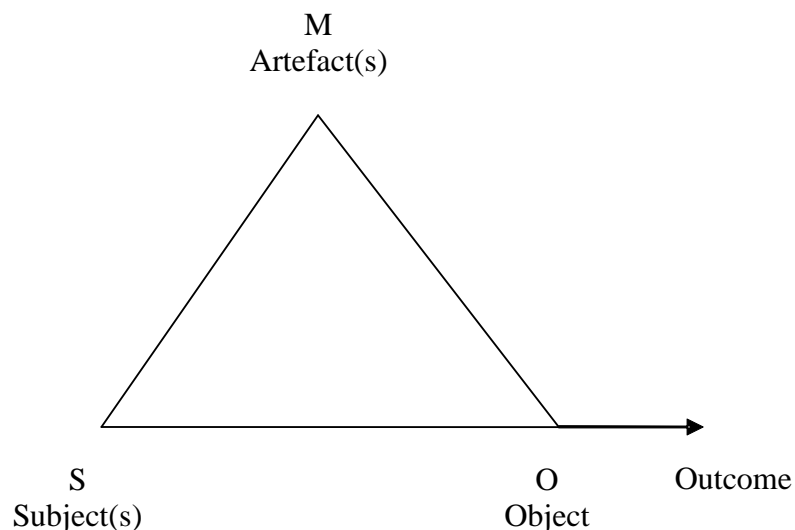
Man makes use not just of physically inherited experience. All our life, our labour and behaviour draw broadly on the experience of former generations, which is not transmitted at birth from father to son. We may provisionally designate this as a historical experience.

Concepts and tools are seen to be historically constituted, thus recognising that the use of these tools is shaped in and by the cultures in which they are used, and that all such use of tools is therefore historically grounded. Nature in itself is seen as shapeless, only given form by agency. Although there exists material to form artefacts, significance is given to this material not by its physical nature but by the value this artefact has to the environment, system or individual (Daniels, 2004). Examples of this include the “QWERTY” style keyboard, the postage stamp and money, as well as less tangible, internal concepts, such as beliefs, procedures, language and mathematics.



Vygotsky offers us a framework for considering human actions in relation to cultural artefacts, suggesting a subject-object oriented analysis focusing on the tools developed by the actor to work on the object of activity. In this framework the object refers to ‘the “raw material” or problem space at which the activity is directed’ (Popova and Daniels, 2004: 196) and becomes the focus of the analysis as defining the motive of the activity and separating it from other activity. The ‘subject’ refers to the individual or group whose perspective or agency the activity is to be viewed from. Thus the subject provides the means to trace the object and understand the ‘problem space’.

This framework for understanding the interaction between individual and environment is seen to be ‘the first generation of activity theory’, and is commonly represented as in Figure 2.1.



**Figure 2.1. Vygotsky's model of basic mediation**

Put simply, the line at the base of the triangle represents “natural” or “unmediated” functions, with “cultural” or “mediated” functions between subject and environment linked through the vertex of the triangle. Thus ‘the emergence of mediated action does not mean that the mediated path replaces the natural one’ (Cole, 2000: 119). The subsequent outcome can be seen to represent the change to the individual, or to the object, through this activity. It is the conceptualisation of the intended outcome that functions as the motivation for, and gives meaning to the activity. Virkunen and Kutti (2000: 299) provide a worked example of this process:

a medical practitioner perceives the appearance of a patient who comes to see him, and in examining the patient, gets more direct perceptions (the line S-O in Fig. 1 [here Figure 2.1] represent this, S being the practitioner and O being the patient). On the other hand, the doctor uses the concepts, theories and disease categories of medical science as well as a set of research methods and instruments when studying the patient. The coordination of the immediate perceptions and the perceptions created through the mediation of these artifacts – say the measurement of blood pressure (line S-M-O in Fig. 1) – leads to a diagnosis of the patient’s disease and a corresponding picture of treatment possibilities...

Whilst Vygotsky’s work was restricted to a focus on the individual within the environment, this approach was further developed by Alexei Leont’ev in distinguishing between collective activity and individual action. Once more the basis for this approach is Marx’s concept of labour as ‘the paradigmatic model of human object-oriented activity’ (CATDWR, website).

Mediated by tools, work is also “performed in conditions of joint, collective activity... Only through a relation with other people does man relate to nature

itself, which means that labour appears from the very beginning as a process mediated by tools (in the broad sense) and at the same time mediated socially.” (Leont’ev, 1981: 208, cited by CATDWR, website)

Indeed, all activity can be seen as collective with no individual able to undertake all ‘the activity required to satisfy his or her needs’, instead relying on coordination with the actions of others. Thus ‘it is precisely in the collective nature of labor that consciousness emerges’, manifested through the division of labour (Leont’ev (1959/1981, cited by Tolman, 1999: 72). This suggests that the action of an individual is only made meaningful if it is understood in the context of the collective activity, and that it is through the collective activity that individuals’ actions are mediated. It also raises the idea of multiple perspectives on an activity amongst those participating, labelled as multivoicedness.

The most commonly used exemplar of such a division of labour is Leont’ev’s own description of the role of the bush-beater in the primeval hunt (Leont’ev, 1981: 210-213; Tolman, 1999: 73; Virkunen and Kutti, 2000: 301). As an individual action the disturbance of the animals appears to be irrational, and counter to the overall objective. The logic only emerges if someone else shares his goal and anticipates the animal’s attempted escape. ‘The sense of his action lies not in the action itself but in his relation to other members of the group.’ (Tolman, 1999: 73)

The difference between an activity, an action and an operation can be seen in Leont’ev’s three level model, illustrated in Figure 2.2.

| <b>Level</b> |   | <b>Oriented towards</b> |   | <b>Carried out by</b>       |
|--------------|---|-------------------------|---|-----------------------------|
| ACTIVITY     | - | OBJECT / MOTIVE         | - | COMMUNITY                   |
| ACTION       | - | GOAL                    | - | INDIVIDUAL OR GROUP         |
| OPERATION    | - | CONDITIONS              | - | ROUTINIZED HUMAN OR MACHINE |

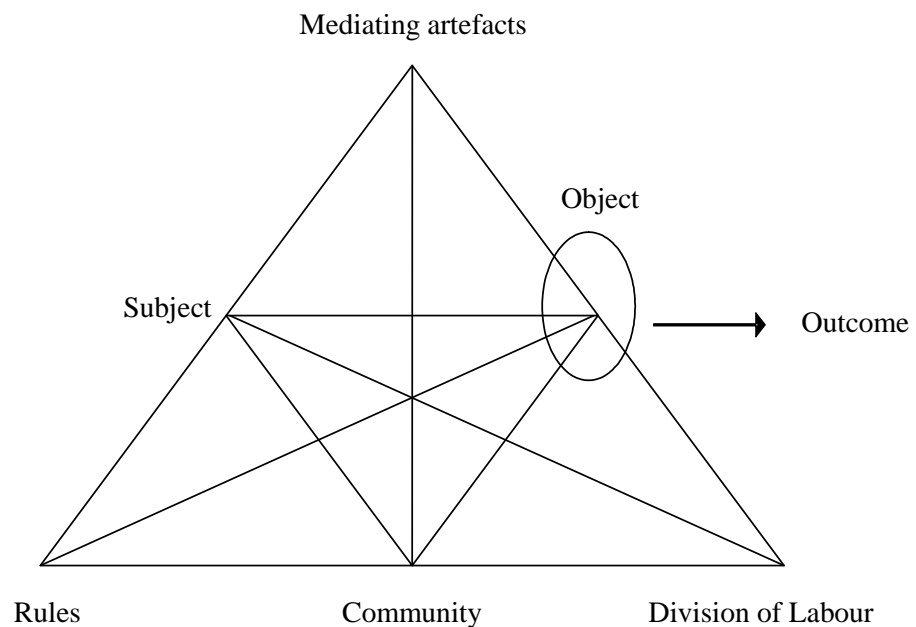
**Figure 2.2. Leontiev's hierarchical structure of activity.** The hierarchy of activity theory slanted to the right and therefore by definition includes operations.

The uppermost level of activity is taken to be a collective endeavour necessarily based on an identified need or motive, giving way to an object. All activity is connected to an object: ‘there is no such thing as objectless activity’ (CATDWR, website); although this object is not necessarily or always consciously known to the individual. Activity is then realised through individual or collective actions, or chains of actions. These actions, as defined by Vygotsky, can be seen to be geared towards particular, conscious goals, connected to the overall object of activity. These goals are ‘images of the foreseen result of the creative effort’ (Davydov, 1999: 39). In turn actions consist of automatic, routinized and unconscious operations, determined by conditions and tools available. Thus:

The uppermost level of collective activity is driven by an object-related motive; the middle-level of individual (or group) action is driven by a goal; and the bottom level of automatic operations is driven by the conditions and tools of action at hand. (Engeström and Mettinen, 1999: 4)

This notion of collective activity, as developed by Leont’ev, has subsequently been expanded by Engeström and his colleagues at the Center for Activity Theory and

Developmental Work Research (Engeström 1987, Engeström et al 1999) to incorporate a more composite contextualisation of the activity, and to allow for an examination of the system within which the activity is undertaken. Within this ‘second generation of activity theory’, the emphasis is placed on the collective within community in preference to a focus on individual action. The basic Vygotskian triangle is therefore expanded to include ‘the social/collective elements of the activity system’ (Warmington et al, 2004:.10), as portrayed in Figure 2.3.

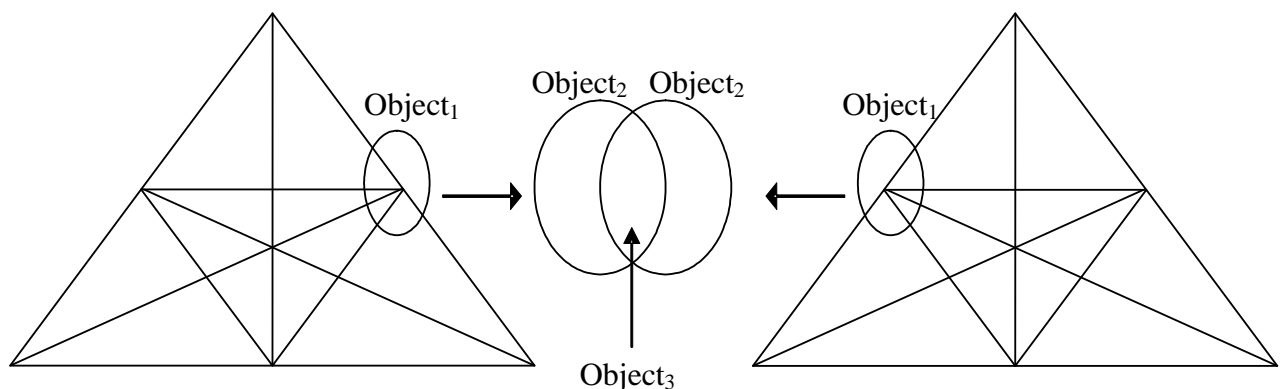


**Figure 2.3. The structure of a human activity system**

In this reconceptualisation we therefore see the inclusion of ‘community’, ‘rules’, and ‘division of labour’ in the model. ‘Community’ is included to place the subject(s) within a larger group comprising different subjects with the same or similar general object, or with an interest in the activity. Relations between subject and community are seen to be regulated and constrained by ‘rules’ ‘that specify acceptable

interactions between members of the community’ (Virkkunen and Kuutti, 2000: 300). These rules include the formal and the informal, norms, conventions, laws and expectations of a community. The model is completed with the inclusion of the ‘division of labour’ between the members of the community, through the implicit and explicit organisation and distribution of goal-directed actions in relation to the activity. This applies ‘to both the division of tasks and the status relations between actors.’ (Daniels, 2004: 123)

It is immediately clear that these categories are not static. An object of activity can later become a tool or even a rule within that system. Similarly a rule or tool may be questioned and therefore become an object of activity. The inclusion of community also provides for a context to the activity system; a context that includes others engaged in activity related to that of the system, and therefore by definition includes other activity systems. It is this notion of interacting or related activity systems that gives rise to the third generation of activity theory as illustrated by Figure 2.4.



**Figure 2.4. Two interacting activity systems**

In the development of the third generation of activity theory we see the ‘conceptual tools to understand dialogue, multiple perspectives, and networks of interacting activity systems.’ (Engeström, 2001: 135) As such, Figure 2.4 represents the minimal model of two interacting systems, and must be considered in the context of numerous such systems. Each system works on an initial ‘unreflected, situationally given’ object (Object<sub>1</sub> as shown above). In addition, this object may or may not have a ‘collectively meaningful’ additional, secondary object (Object<sub>2</sub> as shown above), mediated by interaction with other activity systems, and ultimately form a ‘potentially shared or jointly constructed object’ (Object<sub>3</sub> as shown above). This concept is usefully expanded to consider systems linked by elements other than the object. The discussion below will highlight examples of systems producing tools, rules and subjects within the central activity system. The natural extension of this model therefore presents society ‘as a multilayered network of interconnected activity systems’ (Engeström, 1999: 36)

To give a more detailed consideration to the appropriateness of this framework for exploring complex adaptive systems, social policy development in general and managerialism and street-level bureaucracy in particular, I further explore the concepts and tools provided by activity theory through recourse to the ‘principles’ provided by Engeström (2001). To mirror my discussions of complexity theory I draw particular attention to the conceptualisation of the system through the unit of analysis and to discussions of change within the system through the notion of contradiction fuelling expansive transformation.<sup>2</sup>

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<sup>2</sup> Whilst Engeström (2001) outlines five such principles in this discussion I draw upon just three. For a further discussion of multivoicedness and historicity I refer the reader back to Engeström.

### **Activity system as the unit of analysis**

The first principle outlined by Engeström (2001: 136) is that ‘a collective, artefact-mediated and object-orientated activity system, seen in its network relations to other activity systems, is taken as the prime unit of analysis.’ Through this focus on the object-oriented activity we are presented with a means to understand action, interaction and relationships. Furthermore the constitutive elements of the system, as outlined above, provide the necessary context in which to understand this activity, and therefore the eventual outcome.

This focus on activity ‘transcends person-environment dichotomy’ in seeking explanation (Eskola, 1999). Previous approaches are seen to focus in the main on either the individual or the situation in seeking causal explanation. In contrast:

In a “pure” or “radical” form, the theory of activity seems to get rid of the person as well as the environment. In a less radical form, the theory describes the structures, laws, rules, and logic as they are represented in the actor’s consciousness or as they appear in his or her subconscious sets (Uznadze, 1966). (Eskola, 1999: 111)

As discussed above, it is through the conscious division of labour within society that we are able to understand the nature of the individual. ‘The individual is truly human *only* in society. Indeed, a still stronger conclusion can be argued: that human individuality itself is achievable only in society.’ (Tolman, 1999: 73) This offers a new perspective on the structure-agency dichotomy, implying a need to understand ‘role’ within ‘structure’ as part of a common conscious overall action. Society and its structures give us the motives and aims for our actions and activities, define our roles, and alter our nature: ‘But our activity is not determined by them. Instead we take



them into account on the basis of some form of logic' (Eskola, 1999:110). It is in this encounter between individual and structure that we are able to explain and understand human activity. Thus we cannot explain society by recourse to structures, rules and laws only, nor is it enough to focus on the individual disposition, attitude, or experience. However through the concept of activity we can find a way to combine these factors.

This is illustrated by Eskola (1999: 112) who points out that:

Just as fish live and swim in water, we live our lives swimming in water that consists of laws and rules of the type "if X, then Y". However, the course of our lives is not determined by the law any more than the course of swimming fish is determined by water. From this it follows that the analysis must start not with water but with swimming.

Society can only be understood by examining activity as the embodiment or realisation of societal laws. Thus: 'one can regard activity as an initial category that determines the specific character of people's social being. The social laws can reveal themselves only in activity and through it.' (Davydov, 1999: 41) We can therefore only understand these laws through the way in which they are acted out in an actual or real form, rather than by reference to an imagined or perceived ideal form. Leont'ev (1984) therefore focuses our attention on specific actions as the means to understand consciousness and behaviour.

In addition the focus on the collective is seen to be more appropriate to an understanding of society than a focus on the individual. It is at the level of the collective object-oriented activity system that meaning is realised. This separates

such an approach from a focus on structures or institutions, instead portraying them as merely a constitutive element of the system, and as such merely part of the mediation of the activity. Engeström suggests that society might then be considered ‘more as a multilayered network of interconnected activity systems and less as a pyramid of rigid structures dependent on a single center of power.’ (Engeström, 1999: 36)

In addition the notion of the object is seen to separate one activity from another. As such we are able to perceive of several types of activity co-existing in the same system and amongst the same subjects. Once more this provides a freedom from a focus on the individual or the structure in which this activity is taking place. Because of this however findings are always activity-specific, and therefore not necessarily generalizable to other activity within a similar or even coterminous system.

### **Contradiction as the source of change**

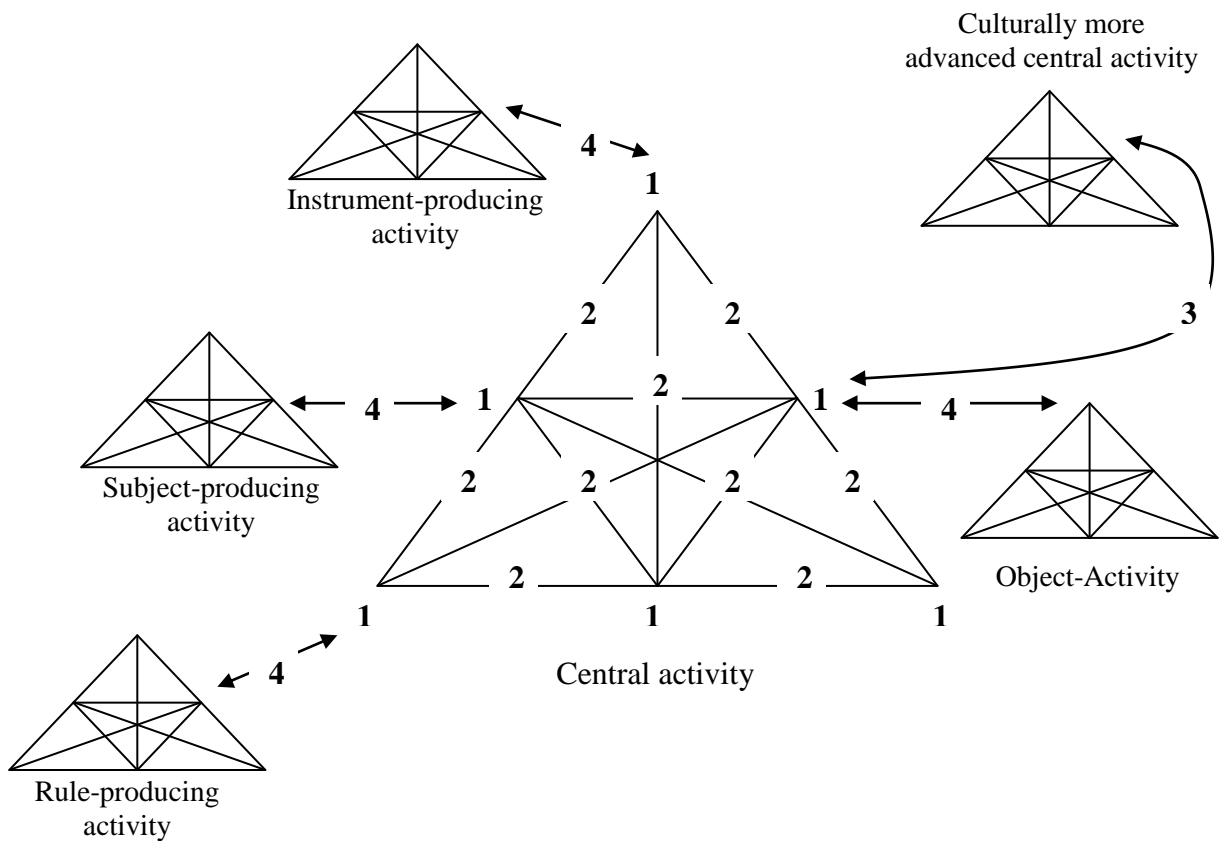
A further principle highlighted by Engeström (2001: 137) ‘is the central role of contradictions as sources of change and development.’ The notion of contradiction does not equate with problem or conflict. Instead contradictions are seen as structural tensions both within and between activity. This concept is also based upon Marxist thinking, portrayed as the possibility for “revolutionary practice” in all activity, however mundane (Engeström and Miettinen, 1999: 3).

Evald Il’enkov (1977; 1982) developed the idea of inner contradiction as the driving force of change and development in activity systems, ‘the principles of its self movement and ... the form in which the development is cast.’ (Il’enkov, 1977: 330, cited by CATDWR, website) Contradictions are not therefore problems but

‘structural tensions within and between activity systems’ (Engeström, 2001: 137) to be surfaced and resolved to allow for development. New qualitative forms of activity are seen to ‘emerge as solutions to the contradictions of the preceding form.’

(CATDWR, website) Systems are therefore seen to be in a constant state of disturbance and innovation as they first surface and then resolve these tensions.

Four types of contradictions have been identified within an activity system, as illustrated by Figure 2.5.



**Figure 2.5. Four levels of contradictions in a network of activity systems**

Primary inner contradictions are seen to occur within each constituent component of the system. This represents an 'in-need' state for the activity system, where one component may be misaligned or faltering. The illustration commonly drawn upon is that of the doctor in primary medical care, as described by Leont'ev (1981: 225), for whom there is a contradiction between the patient as medical subject suffering from illness and the patient as source of revenue, such that an increase in illness equates to an increase in profit. The primary contradiction is therefore to be found in any element of the doctor's work, including the variety of medications he or she uses. These drugs are not just useful for healing but are also commodities with prices, manufactured for a market, advertised and sold for profit. Once more the connection between this and the Marxist analysis of capitalism is clear. Such a contradiction is seen to have an effect on all aspects of human society and therefore all such activity systems.

Secondary contradictions are seen to occur between components of the activity system as new elements enter the system from the outside. This might be the emergence of a new or extended object, new tools or technology, or a change to the context or rules in which the system is operating. This necessitates a change amongst other elements of the system, and ultimately to the activity. To extend the metaphor of the doctor in practice, patients may present new medical problems, associated with an increasingly complex array of symptoms that do not comply with standard diagnosis. In particular this can be seen to require the development of an integrated biopsychosocial approach to treatment (CATDWR, website).

The concepts of tertiary and quaternary contradictions link the central activity system (i.e. that under investigation) to its neighbouring activity systems. Tertiary contradictions are seen to occur in the emergence of a ‘culturally more advanced’, reinterpretation of the object and motive for the central activity that then forms a challenge to the old, dominant form. Again the Center for Activity Theory and Developmental Work Research offers an example based on practitioners from a medical clinic, who might ‘using experiences from other clinics, design and adopt a new model for their work that corresponds to the ideals of a more holistic and integrated medicine.’ (CATDWR, website)

Similarly quaternary contradictions are seen to emerge as the central activity system interacts with neighbouring ‘functionally linked activity systems’. Through such interaction:

The outcome of an activity will become a part of another activity system: an object to be transformed in the “value chain”, a subject (the outcome of a training activity), a tool, a rule, etc. (Virkkunen and Kuutti, 2000: 301)

Between any interacting systems there is seen to be a ‘boundary’ through which ‘boundary crossing actions’ occur as practices are challenged as they move between systems, evoke new models, ideas and concepts emulated and appropriated and eventually consolidated (Engeström, 2001b).

Empirical studies evidence artefacts, rules, subjects and objects crossing the boundaries between activity systems. In discussing the development of new forms of collaboration between primary and secondary healthcare providers, Kerosuo and Engeström (2003) discuss the creation and implementation of appropriate ‘collective

routines' as an essential premise given the multiple providers involved. The concept of objects crossing boundaries is employed by Sherry and Chiero (2003) in their study of the development of the TALENT learning communities at California State University. In this study working on the 'shared object' of technology-infused instruction between the interacting systems of technology providers, the learning community and the participating school, is seen to have had a subsequent 'ripple effect' in each system. Not only does this explicitly alter the object itself but could also 'potentially bring about corresponding changes in norms, roles, and the structure of the communities that make up each organization.'

By creating learning communities in which each member is a novice in some areas (e.g., pedagogy) and an expert in other areas (e.g., technology), and by empowering each member to engage in joint productive activities with a clear goal in mind, the social structure of the learning community as an Activity System was disturbed. A sudden reversal of traditional roles can cause discomfort and a disturbance within an Activity System ... this discomfort can have a positive effect on learning because it results in cognitive dissonance... Along with role changes came changes in norms, or "the way we do things around here." (Sherry and Chiero, 2003)

Williams (2001) provides a further example in discussing the differing perspectives on what should be usefully taught regarding mathematics between staff at a college and a workplace. In doing so he highlights the influence of the movement of people between activity systems.

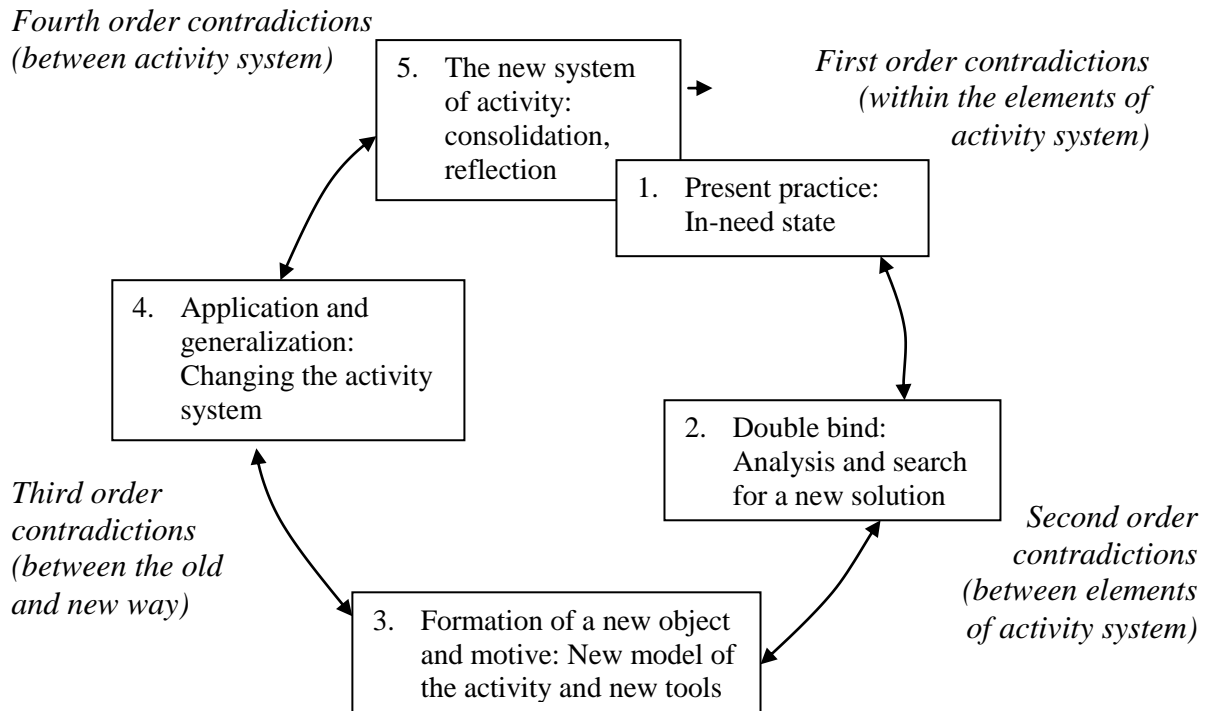
People cross boundaries, they live in many different communities and systems, and they bring their experiences, languages and concepts with them across these boundaries.

Such crossing of boundaries is seen to be ‘the living source of contradiction between systems.’ To complete the worked example of the medical practitioner, conflicts are seen to be possible if a doctor, working to a model of integrated or holistic medicine, refers a patient to a hospital working to a traditional biomedical model (CATDWR, website).

### **Expansive transformation through the resolution of contradictions**

The final principle put forward by Engeström (2001: 137) ‘proclaims the possibility of expansive transformations in activity systems.’ In experiencing and resolving contradictions activity systems move through ‘long cycles of qualitative transformations’. Should such change lead to a reconceptualisation of the object and motive ‘to embrace a radically wider horizon of possibilities than in the previous mode of activity’ then an expansive transformation is seen to have occurred.

In exploring and understanding such transformations Engeström suggests the seemingly ‘promising’ approach of analysing the ‘stepwise formation and resolution of internal contradictions in activity systems.’ (1999: 33) Contradictions, of the four forms discussed above, are seen to manifest themselves in the form of disturbances, ruptures and expansions in the functioning of an activity system (Engeström et al, 1997). The actors involved in a system are seen to try to overcome these disturbances by changing and developing the cultural mediators of the activity. Such a process is seen to follow ‘cycles of emergence, transformation and solving of inner contradictions within the activity system’ (Virkkunen and Kuutti, 2000: 302) as illustrated by Figure 2.6.



**Figure 2.6. The cycle of expansive transition and learning**

The process is seen to begin with the misalignment of one or more components of the activity system due to an internal or external development, such that the focus of activity is disrupted. Substantial misalignment is seen to lead to contradictions between elements, and therefore the failure of the activity to achieve the object. Any attempt to overcome this

requires reflective analysis of the existing activity structure – one must learn to know and understand what one wants to transcend. And it requires reflective appropriation of existing culturally advanced models and tools that offer ways out of the internal contradictions. (Engeström, 1999: 33)

To overcome the contradiction the object and motive ‘has to be reinterpreted and reconstructed in a wider perspective’ as a ‘motivation for change’ (Virkkunen and Kuutti, 2000: 303). This process is often seen to incorporate experimentation, before gradual generalization. New tools and ways of working will create further



contradictions between old and new practice, and more specifically between new practice and old expectations, and therefore lead to further disturbances, ruptures and expansions in the functioning of the activity. As such:

There is a constant tension between the expansive, future oriented solutions and the regressive ones that would mean return to the old practices. The solutions to the problems gradually give form to a new practice which may eventually be quite different from the planned model of the new activity. (Virkkunen and Kuutti, 2000: 303)

The phases of the cycle are therefore not automated, predetermined, predictable or inevitable, with the possibility for resistance and inaction amongst subjects of the activity. The process is therefore not necessarily one of expansion. They are however irreversible, for once new ways of working are initiated disturbances caused to the old activity mean it is not possible to return to it. As such they should be considered to be non-linear and unpredictable.

In examining expansive learning, activity theory can be seen to explore processes of internalization (the representation of culture internally) and externalization (the creation of new artefacts for the transformation of society or the activity system). This represents a process of change to the subject through their involvement in a system, followed by a subsequent impact on the system of operation through the actions and ideas of the subject. In particular we can see a shift from the mental, non-material, ideal form of the object and activity, as imagined in the mind of the subject in relation to the formation of a need and goal, developing through a process of joint activity (Bakhurst 1995, 2004).

The spider makes operations resembling the operations of a weaver, and the bee creating its waxen cells disgraces some architects. But from the very beginning, the worst architect differs from the best bee in that before building the cell of wax, he has already built it in his head. The result, which is received at the end of the process of work, already exists at the beginning of this process in an ideal form in a representation of a person. The person does not only change the form given by nature he, at the same time, realises his conscious purpose, which as a law determines the way and character of his actions and to which he must subordinate his will. (Marx cited in Vygotsky (Veresov's translation), 1999)

The ideal form, as existed in the consciousness of the individual, is therefore shifted in relation to the context in which the individual is operating and the positions of other individuals with whom he undertakes joint activity (Davydov, 1999). Such processes of expansive learning are also theorised in understanding 'multi-organizational terrains of object-oriented activity... occupied by multiple activity systems' (Engeström, 2001b), as derived from the third generation of activity theory, in which two interacting activity systems have a partially shared object. In such scenarios expansive learning is equated to the 'renegotiation and reorganisation' of collaborative working practices between as well as within activity systems. Where multiple and competing ideas are present Engeström therefore suggests a need to learn across or between systems rather than simply within organizations.

In such contexts, concept formation typically occurs as stepwise two-dimensional negotiation and hybridization. The first step may be a debate between an administratively given pre-articulated ('scientific') concept and situated articulations of ('everyday') experience. This may lead to a proposal for an alternative 'scientific' concept, again contested by some participants on experiential grounds, etc. The alternative proposals may often be traced to the

cultural resources of different participating activity systems (see Engeström, 2001a). (Engeström, 2001b)

It is such a scenario that forms the backdrop to the local implementation of BSS in a terrain incorporating multiple communities of interest with varied professional perspectives, influencing the development of the scheme at different stages.

### **The application of the principles of activity theory to complex adaptive systems**

This chapter has introduced the two theoretical approaches that have informed the development of my thinking, data collection and data analysis. To conclude the discussion this final section considers the compatibility, mutuality and complementarity of the two theoretical traditions, in particular questioning the applicability to the study at hand. Once again the discussion focuses primarily on the conceptualisation of the system under investigation and the means to explore and understand how change occurs in that system.

The importance of understanding local implementation in order to develop effective managerialist policy was raised in the introduction and is further explored in chapter 4. The framework developed in this chapter can be seen to provide for such an approach. As outlined above, complexity theory specifies a focus of attention at the appropriate level, where a locally-held meaning holds true. I have argued that activity theory meets this call, offering a means to conceptualise this domain of shared understanding through the concept of the collective activity. Thus, for both theories, only a process of localised exploration will do, similarly applying the notion of context boundedness, suggesting problems with generalization that can only be overcome through an understanding of local context and the semantic development of

models. In particular we can see resonance between the focus within complexity theory on the meso-level and the concern of activity theory to overcome the person/environment, agency/structure dichotomy. Just as complexity theory espouses an understanding of the meso-level as the means to an understanding of the micro and the macro, activity theory argues that both the individual and society can only be understood through an appreciation of how societal laws are experienced and played out through collective human activity. By taking object-oriented activity as the unit of analysis, activity theory therefore offers a means to usefully conceptualise the notion of the meso-level, taking it outside of basic notions of structure or institution, towards an appreciation of the encounter between individual and structure. Activity theory therefore provides support to complexity theory through a stronger, yet less rigid, unit of analysis or conceptualisation than the complex adaptive system, whilst maintaining the recognition of the system as self-organising, and the likely emergence of unpredictable behaviour.

Taking a hermeneutic approach, complexity theory asserts that the whole contains things that are indeducible from a description of any part of it, implying a need to understand the system as a whole rather than its constitutive parts. The system itself must be the unit of analysis rather than any element of it. The notion of collective human activity offers a means to such an approach, similarly rejecting a focus on individual actions or operations without understanding the activity of which they are a part. In addition whilst the activity system remains the unit of analysis, activity theory provides an explicit framework of constitutive elements as a means to understand it. Explicitly through the concept of multivoicedness and implicitly through the focus on the perspective of the particular subject, the activity theory

framework provides a flexible approach to what constitutes the system under investigation, through an organic consideration of the collective. In complexity terms this provides a means to explore fractals within the system. In the context of my study this allows for a consideration of the BSS scheme, housed within the local YOT, which is in turn couched within the local youth justice system and therefore interacting with the range of organisations that comprise it.

As with complexity theory the influence of the macro is not ignored, being explicitly considered with regard to the rules, community and division of labour it provides. Whilst activity theory is perhaps less concerned with a theoretical depiction of society, Engeström's (1999: 36) description of a 'multilayered network of interconnected activity systems' together with the appreciation of systems operating in a context describable in terms of rules, a community of interest and a division of labour, offers some support to the complexity theory assertion of the open system and distinction between system and environment. Indeed the proposal of environment affecting an adaptive system is made real by a consideration of the varying types and causes of contradiction that might occur within a system, and by consideration to boundaries and boundary crossing actions. Tertiary and quaternary contradictions illustrate the influence of other systems on change occurring within a central system. That is, changes occur within a system in reaction to change in the neighbouring systems, constituting the immediate environment.

This is reflective of the key complexity theory concept of co-evolution, asserting that systems adapt to each other rather than one impacting on another. Complexity theory may be seen as a call for greater emphasis on the system within a network of

neighbouring systems. Current theorisation appears to focus on the productive-consumptive links between activity systems. This incorporates an assumption that all links are due to production of relevant system characteristics within another system, that is, that all links are the outcome or product of external activity. This is in contrast to a networked activity approach whereby elements of a system may be shared or connections based on something other than a production model. If we consider the concept of co-evolution developed in complexity theory we can see the environment influencing the system and vice versa. As such any change in the environment or context in which the system operates is seen to result in a subsequent impact on the system. This notion places greater emphasis on how external, neighbouring activity might alter the make-up of the community of interest and division of labour of the central system, whilst not excluding the sort of production-consumption relationship that Engeström describes. In particular complex adaptive systems are presented as sensitive to small changes in the external environment suggesting subtle change in neighbouring systems, as opposed to the (seemingly) substantial productive outcomes of neighbouring activity systems, may result in change in the central system. Thus the construct of interacting activity systems must be sensitive to the unpredictable, emergent behaviour encapsulated in the analogy of the ‘butterfly effect’. In relation to my study the BSS scheme will be seen to be sensitive to changes in the YOT workforce and to the caseload of the youth court session. Only through my own practical application can I be confident in the ability of existing activity theory tools to capture and indeed explain such subtle influences. As such this is an issue to which I will return in my conclusions.

Complexity theory is based on a premise of nonlinear dynamics, describing social change in nonlinear, unstable systems. A clear relationship between variables is not always found to be evident, or a simple cause and effect obvious. Instead ideas such as adaptation, intelligent behaviour and evolution confuse such correlations, with the importance of human agency paramount through the ability to act outside of norms and to bend structures, and to provide a basis for different potential outcomes. In line with Harvey (2001) I have presented bifurcation and co-evolution as two elements of the same discussion. Activity theory does nothing to counter this synthesis.

Expansive transformations in activity systems support the notion of dissipation and assimilation of new information into greater complexity within the system, and clearly also allow for a consideration of temporality or impact over time. The notion of historically constituted activity explicitly recognises the possibility of delayed, as opposed to instantaneous impact, and for small changes to have large effects over time in reaction to changing context. In the first instance it may seem as though Engeström's description of transformation is more naturally akin to the gradualism of co-evolution, but the concept of the contradiction on which change is based may equally result in 'a Cambrian explosion' or sudden abrupt change. Furthermore the four types of contradiction outlined by activity theory together with the explicit framework in which the contradictions are understood provide a means to explain in detail how change occurs within a system, and strengthen the more theoretical representation of complexity theory.

In doing so activity theory is compatible and congruent with the notion of a fitness landscape and associated attractors at which a system is thought to rest. A shift between attractors might occur through the changing nature of the system as tensions

and contradictions are surfaced and overcome. As described in the discussion of fitness landscapes such a shift might occur due to a change in the parameters of the environment (depicted as a tertiary or quaternary contradiction within the discourse of activity theory) or through internal developments in the system that affect the way in which it interacts with its environment (represented similarly by primary or secondary contradictions). In the reconceptualisation of the object, and subsequent expansive transformation in the activity system, a shift between attractors might be seen to occur. In defining an ideal state or desired outcome managerialist policy seeks a shift to a particular attractor. In exploring local implementation I examine how tensions and contradictions impact upon the idealised perception of the object of that attractor and potentially shift activity towards a different focus, as the system undergoes expansive transformation.

The theorisation of change and development as described by the two frameworks can therefore be seen to be non-contradictory, in the sense that both allow for sudden and gradual change, and complementary, in that one provides a theoretical depiction of the system and the other a means to empirically explore this, through an understanding of the impact on the constituent elements of the system. In the following chapter the applicability of this hybrid approach to the study of managerialist policy development and enactment is further asserted. The conceptualisation of the system at the level of object-oriented, collective activity provides a focus on the local level, in the context in which policy is understood and put into practice whilst providing a framework that gives explicit consideration to the structural constraints and motivations imposed by managerialist policy control. Furthermore I am provided with a detailed framework through which to explore the development of the system through consideration as to



tensions and contradictions that might be seen to emerge within the system or through the interaction of the system with its environment. This theoretical frame will subsequently be translated into the methodological approach by which I was able to explore this interaction between the central activity system of the BSS scheme, the YOT organisation of which it is a constituent part and the youth court and its liaison groups through which practice is necessarily undertaken. Such an approach will allow me to trace the development of practice through consideration as to the transformations within the central system brought about by such interactions, in particular tracking the conceptualisation of the object of the system, providing the means to compare the idealised object formation of the managerialist policy to the development of a material, concrete object emerging from the necessary reaction to the contextual, situated practice.

### **Chapter 3. Operationalising the theoretical framework: the development of a methodological approach**

The previous chapter outlined the theoretical framework constructed in order to conceptualise the development, enactment and evaluation of complex social policy initiatives. In particular I established the concept of a complex system, the relationship between this system and its environment and the associated basis for exploring change in that system. I did so through recourse to the notions of complex adaptive systems together with that of the activity system centred on object-oriented, collective activity. Whilst the previous chapter provides a strong theoretical framework through which to conceptualise the social world and policy development in general, this chapter seeks to turn this from the abstract to the concrete by tracing the development of my research strategy through the emerging areas of enquiry and the methodology developed correspondingly.

It does so by relating the concepts derived from complexity thinking to the study of managerialism, connecting the notion of policy landscape to the managerialist agenda of controlling the practice and output of state institutions. I then return once again to the framework of activity theory in describing how I use the tools provided to trace the impact of managerialist policy development on situated practice, by conceptualising and subsequently exploring the BSS scheme as the central activity system operating in an environment incorporating the national youth justice system, as well as the more immediate local Youth Offending Team and youth court settings.

Having further established the appropriateness of the theoretical framework to the study at hand I then illustrate how this has guided the development of the

methodology adopted in order to understand the perspectives and subsequent activity of the range of actors involved in the workings of the BSS scheme. Firstly, I outline how this framework has guided the various layers of enquiry undertaken and the methodology used, in exploring policy development at a national level; local policy implementation through the development of a Bail Support and Supervision scheme at a local level; and decision-making processes in a court setting. My aims with regard to this thesis are placed within the requirements of my formal role as the local evaluator of the scheme in describing the stages undertaken in my research and the constraints within which I was forced to operate. I then discuss in more detail specific methodological concerns of relevance, before concluding by reaffirming my overall methodological approach with specific reference to the principles of activity theory based research established earlier in the chapter.

### **A theoretical model for examining state managerialism**

The application of complexity theory to studies of managerialism is not in itself a new venture. Organisational management commentators have drawn on the notions of complexity, and in particular of fitness landscapes containing the parameters governing the economic environment to challenge traditional assumptions.

Complexity theory portrays management ‘as the process not only of fending off, but also of sometimes seizing hold, of those very forces.’ (Lissack, 1999: 110)

Organisations are presented as able to interpret and construct a reality or context in which they exist, suggesting that management might seek ‘solutions in new landscapes as well as reforming old systems.’ (Blackman, 2001) This was portrayed by Weick (1995) as managers “enacting” their environment. In doing so they

construct, rearrange, single out, and demolish many 'objective' features of their surroundings ... they unrandomize variables, insert vestiges of orderliness, and literally create their own constraints. (Weick, 1995 cited by Lissack, 1999:111)

Complexity theory can therefore be seen to have informed managerial thinking and planning. Lissack also cites Levy (1994) who conceptualised industries as chaotic systems leading to a number of assumptions by which management should be guided that echo the ideas of the previous chapter.

Long-term forecasting is almost impossible for chaotic systems, and dramatic change can occur unexpectedly; as a result, flexibility and adaptiveness are essential for organizations to survive. Nevertheless, chaotic systems exhibit a degree of order, enabling short-term forecasting to be undertaken and underlying patterns can be discerned. Chaos [complexity] theory also points to the importance of developing guidelines and decision rules to cope with complexity, and of searching for non-obvious and indirect means to achieving goals. (Levy, 1994, cited by Lissack, 1999: 112)

Thus by monitoring the 'behaviors of both the world and of the agents of the organization, observing where potential attractors are and attempting to supply resources and incentives for future moves' it is seen to be possible for management to control both system and environment (Lissack, 1999: 114). Whilst unable to completely control the development of the organisation, through the creation of constraints and incentives, management retains some ability to influence the shape of the fitness landscape, or at least to react effectively to it.

A similar argument can also be developed with regard to state managerialism. As companies attempt to ensure appropriate gains in the economy so managerialist social

policy can be seen as a means to guide the practice of state institutions in an attempt to control outputs or service responses, by putting in place constraints and incentives or motivations by which to govern behaviour. A managerial state might therefore be presented as one which is commonly and explicitly attempting to alter such policy landscapes and therefore to change practice towards certain attractors. Tim Blackman (2001) describes how 'Policy landscapes can be tuned to actively encourage transformation in performance'. In doing so he presents complexity theory as 'a more realistic and democratic approach to achieving policy goals than the audit culture of performance management', the latter criticised for the 'unintended consequences' target-setting can produce, the potential manipulation of indicators and the 'lack of recognition' for both 'whole systems' and 'the effects of external factors on internal performance'. In contrast an approach based in complexity theory is seen to bring 'democratic problem-solving and decentralised experimentation', through a 'whole systems approach' with explicit consideration to the wider environment. Blackman applies the principles of complexity theory in describing the 'policy landscapes' in which British higher education and neighbourhood renewal schemes operate. Here policy can seek to define or produce attractors by constraining system behaviour in certain directions, using control parameters that 'tune' the landscape. In the following chapter I aim to provide a similar representation of youth justice policy in general and bail and remand policy in particular, centring on the introduction of Bail Support and Supervision schemes.

The introduction to this thesis outlined my intention to explore such a policy through enquiry at the local level at which it is enacted. This focus was argued to allow for learning from the development of public policy through an understanding of how a

system interacts with its environment such that context impacts upon policy goals, and therefore the likely 'success' of the intervention. Whilst managerialism might provide the ultimate endpoint to which a system might aim, the immediate environment defines the context in which this goal is to be achieved, bringing particular problems that must be overcome and constructing the basis upon which the system must operate. Such an approach offers much to government policy development in exploring how aims might be better achieved, including the support that might be offered and the unanticipated difficulties that might be resolved in order to empower local organisations. In the preceding chapter I have presented activity theory as an appropriate means by which to explore such local policy enactment providing a management tool that can be utilised at a local level to understand the tensions and contradictions impacting upon practice. Thus the cultural historical development of the local Bail Supervision Scheme is taken as the central activity system, with explicit consideration given to the apparent neighbouring rule, tool, subject and object-producing activity systems, as well as to the policy context in which the scheme is developing. This provides a means to explore situated practice through a focus on the activity of those charged with implementing the policy as opposed to the policy itself.

By focusing on the object, or what is being worked on, we are able to track the changing conceptualisation of the problem space as it moves through the various settings and stages that influence the operationalisation of the policy. In addition the associated framework by which to understand the activity system working upon this object provides a means to explore the range of influences on this development. Such a focus enables a particular aim to be placed within the context in which it is attempted to be achieved. I shall therefore use this framework to illustrate how a

seemingly simple managerialist aim to address a particular statistic or objective, presented as though discrete and isolated, is in fact enacted within a complex system where such an aim cannot be disentangled from the web of other competing aims, pressures and influences. In doing so I am able to show how the aims as given by the government and Youth Justice Board, in making such schemes a statutory requirement and funding dependent on meeting given standards, are necessarily morphed or circumvented in order to address the more immediate concerns of the community of interest and its influential stakeholders.

### **Towards a methodology approach**

Whilst providing insight into the necessary foci of enquiry, this theoretical framework does not bestow a definitive methodology with which to undertake the research.

Although the combination of theoretical frameworks offers much in terms of a general conceptual approach and guiding principles, neither specifies the exact methodology needed to reach the necessary degree of understanding. Ian Sanderson (2002: 15) presents complexity theory as espousing a ‘horses for courses’ mentality, with an evolutionary approach to evaluation design, ‘kept under review and modified to adapt to the changes in the system being evaluated.’ More problematically Decortis et al (1997) present activity theory as useful in the structuring of research,

without totally prescribing what to look for. As Engeström (1993) has noted, activity theory does not offer ready-made techniques and procedures for research; rather, its conceptual tools must be concretized according to the specific nature of the object under scrutiny.

The study of activity systems requires the researcher to understand transformations through the mapping of expansive cycles, yet clearly the nature of such cycles and

therefore the appropriate means to understand them cannot be ascertained until the system has been 'entered' by the researcher. My attempts to develop a research strategy appropriate to my setting are however informed by the theoretical reflections that can be seen to have emerged from the variety of empirical studies undertaken within the broad discipline of activity theory research. In particular, Tolman (1999), Decortis et al (1997) and Nardi (1996) offer insight into the seeming 'principles of an appropriate method' (Tolman, 1999: 76), whilst Popova and Daniels (2004), Foot (2002) and Davydov (1999) provide useful reflection on their attempts to surface and explore the object of the system.

In undertaking activity theory based research Tolman (1999: 78) argues 'an existing theoretical understanding of the general process' to be an important starting point. This implies a need to understand the idealised object formation stage. In social policy terms this might be seen to include the official statute, guidance and discourse surrounding the policy. Subsequently, common to the discussion of all three papers is the stated need for 'a research time frame long enough to understand users' objects' (Decortis et al, 1997, citing Nardi, 1996). In particular a timescale by which change to the object can be understood as it develops is seen as crucial. This suggests the need for a suitably longitudinal study of a system in development; a requirement that is thankfully necessary as well as desirable to the study at hand given the requirements of my role as the formal local evaluator for the scheme (as outlined below).

Advice is also given on how to understand this object. Tolman (1999: 76) suggests the importance of 'analysing processes not objects', implying that it is in action not



intent that the object is to be understood and traced. Similarly Tolman calls for ‘explanation’ rather than ‘description’, moving beyond a common surface level appreciation of actions towards a recognition of underlying causes. This is described as the ‘ascent from the abstract to the concrete’ (Tolman, 1999: 77 citing Il’enkov, 1960/1982) such that abstract rules are denied, with preference given to the concrete conception of the problem as it is understood in a particular situation.

The abstractions must be made concrete by finding their real connections within the concrete, integral whole of learning/teaching within the societal process. (Tolman, 1999: 77)

In order to do so Tolman argues that behaviour must be looked at “‘genetically”, by observing its development’ rather than solely in its developed or ‘fossilized’ form. This is reiterated by Decortis et al and Nardi who call for ‘attention to broad patterns of activity rather than narrow episodic fragments that fail to reveal the overall direction and import of an activity.’ (Decortis et al, 1997) This implies that a model study of an activity system requires involvement at the inception of the system, or at the point of change in the system should this be the focus of enquiry, if this is feasible. Furthermore significant time should be spent in the setting so as to observe naturalised ‘normal’ behaviour and account for its development, rather than relying on episodic events assumed to be indicative of activity. Once again the conditions that gave rise to my study are favourable in this regard with my involvement sought both at an early stage and extensively during the scheme’s development.

Central to each of these ‘principles’, as reflected by the discussion of the previous chapter, is understanding the form and the focus of the activity system. Thus the

methodological concept of the object, and indeed the object trajectory, is used as a means to understand the system and the individual within the system.

The leading methodological quality of the object is that it unites all components of the activity system under consideration. When we try to identify the object we look for something material and ideal at the same time. (Popova and Daniels, 2004: 196)

As such, the identification of the object is an obvious key element of activity theory research. In understanding how an object might be identified (or ‘surfaced’ in the terminology of activity theory) and explored, I was able to draw on the insight of several empirical studies carried out within an activity theory tradition.

Kirsten Foot (2002) poses several questions about the theoretical dimensions of the notion of an ‘object’, believing the concept to be ‘a central, but frequently misunderstood, element of cultural-historical activity theory’.

From what, when, and where does the object of an activity system come? How does an activity theorist identify an activity’s multifaceted, evolving object? What is the relationship between a collectively constructed object and individuals’ goals?

The object is perceived to be ‘uncatchable’, ‘just as a horizon is forever unreachable’. Instead the focus should be on understanding ‘facets of the object as it is conceived of and engaged by the participants in an activity system through empirical research.’ As outlined above the object within an activity system must be understood as ‘a collectively constructed entity.... through which the meeting of a particular human need is pursued.’ As such ‘the process of object formation arises from a state of need

on the part of one or more actors.’ (Foot, 2002) An object is therefore not arbitrarily constructed by a subject but develops over time, within historically accumulated and collectively constituted activity. This holds particular resonance in relation to the study of managerialist policy with the setting of performance targets representing an idealised object, not always connected to the daily activity of those charged with achieving it. Through the notion of activity we are able to separate this object ‘on the horizon’ from that to which activity is directed.

In some instances objects may be materially observable and therefore relatively easy to identify, as, for example, with manual labour. Elsewhere however the identification of objects may require ‘a complex process of analysis over time’. In some instances participants may not be ‘conscious of the need state that underlies their activity.’ (Foot, 2002: 360) Kirsten Foot repeats the caution of Engeström and Escalante (1996).

The object should not be confused with a conscious goal or aim. In activity theory, conscious goals are related to discrete, finite, and individual actions; objects are related to continuous, collective activity systems and their motives... The slippery and transitional nature of objects sometimes evokes a denial of their very existence. (Foot, 2002: 360)

Furthermore the object can be seen to follow a temporal trajectory (Popova and Daniels, 2004) such that it cannot be truly understood through a snapshot (Nardi, 1996). In particular the object is seen to first emerge in an ideal or abstract form ‘manifesting itself as a need or a goal’ (Davydov, 1999: 50), before taking on a simultaneous ideal and material form as it is developed (Foot, 2002). The concept of an object trajectory can be utilised to track the development of the system as a whole,

incorporating the transformation of all components of the activity system in response to the changing object.

In addition Foot argues that an object will have ‘multiple manifestations for the various participants of its activity’.

An object is conceptualized, engaged, and enacted by participants in the activity in diverse ways, resulting in differing object concepts within the same activity system. Thus the identification of an activity’s object requires careful observation from multiple viewpoints within the activity system, ideally over time. (Foot, 2002:139)

As such an object is seen to be ‘interlinked with the subject to the extent that its construction and transformation depends on the subject’s will and motivation.’ (Popova and Daniels, 2004: 196, citing Miettinen, 1998, Engeström, 2001) The agency of the subject is therefore presented as vital in understanding the ‘problem space’ and thus the object trajectory. Indeed: ‘Before interviewing the subjects it was impossible to capture a clear understanding of the object.’ (Popova and Daniels, 2004: 204) In turn by tracing the object and how the subject acts upon it we are able to understand more about the subject’s position and ‘personal qualities’. Therefore Popova and Daniels describe the use of the object to understand the subject and the subject to understand the object, as well as the power relations between the two. Once again the relevance to managerialism is clear. The object cannot be assumed to be the particular policy goal. Enquiry should therefore not be premised on this formalised objective but develop through an understanding of subject position and action.

The importance of understanding the perspective of the subject is extended through the concept of polycontextuality (Engeström et al, 1995). This concept recognises that subjects of any activity system will be engaged in multiple tasks in different contexts, and in particular in different activity systems. In understanding the perspective of the subject in relation to the activity under investigation, consideration must be given to neighbouring activity that informs the subject's actions. This can be seen as incorporated within the notion of subject-producing activity, but may also inform the rules and tools adopted within the central activity.

In designing my research strategy I was therefore clear that the focus of my enquiry needed to be the changing nature of the object of the activity system of the BSS team: firstly as it moved from the idealised conception stated at the outset to the material form developed in response to the localised context in which the scheme operates; and secondly over time as the scheme transforms through its interaction with an environment likely to be changing. In addition it was clear that I required a focus on the perspectives of the various subjects and stakeholders involved in the system and its immediate environment. This was most appropriately achieved through naturalised observations of daily actions of the various members of the BSS team, the senior YOT management and the various court users with an interest and influence on the scheme, in each of the various settings in which such actions occur. This was to be backed up by specific and focused interviews of various forms, to be based upon my developing understandings of the practice I was observing. The development of the specific methodology by which this was to be achieved is discussed below. First I outline my conceptualisation of the areas or settings for enquiry before discussing the methodology used in each setting. In doing so I also give detail of my role as the

formal local evaluator for the scheme. This role will be seen to variably inhibit and facilitate my planned approach.

### **Conceptualising the areas for enquiry**

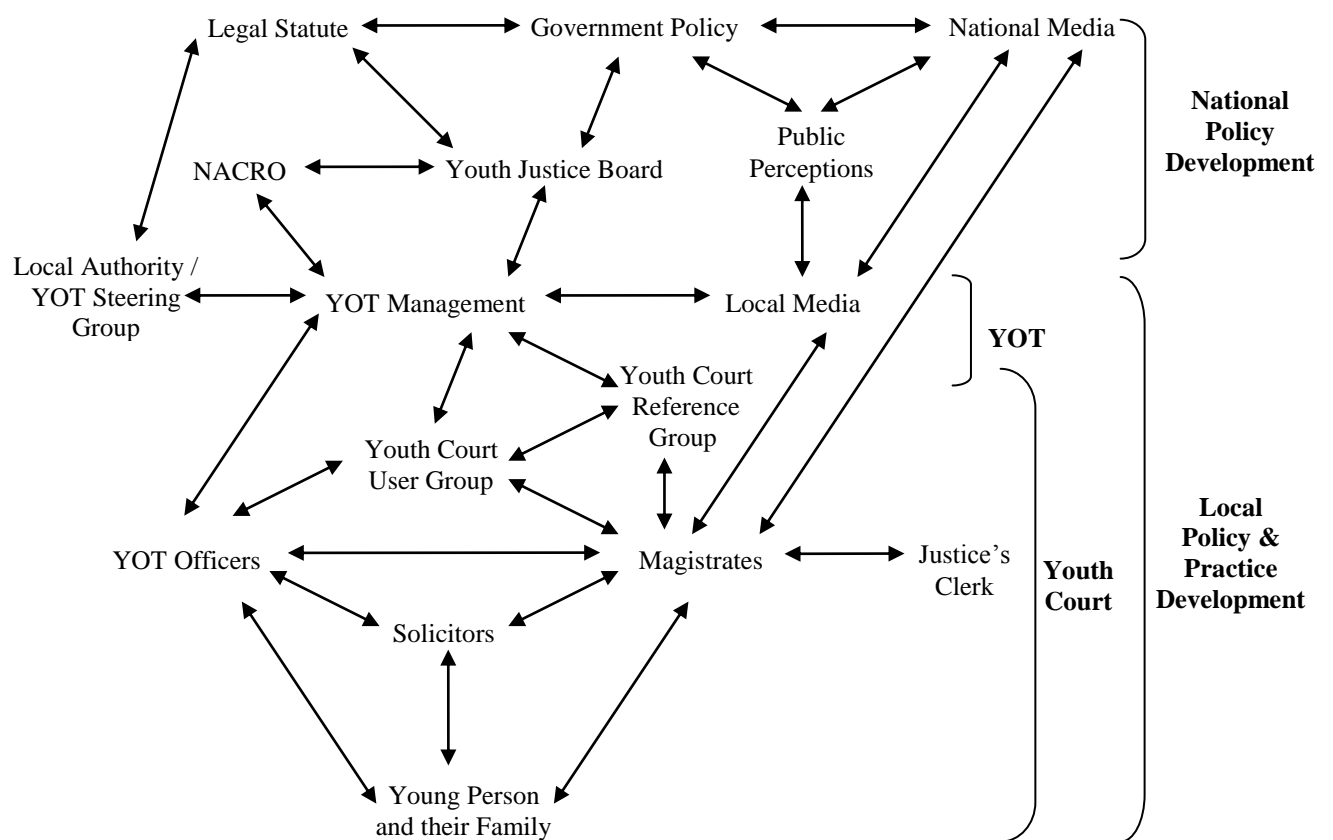
The framework constructed in the previous chapter suggests that an understanding of the development of a complex policy initiative at a local level needs to be understood in terms of the other activity systems that influence it. Taking the development of a BSS scheme as the central activity, I shall therefore use activity theory to track the object as it moves through and is transformed by, the various systems that come into play in operationalising youth justice policy. Principally, I shall explore policy development at a national level; local policy implementation through the development of a Bail Support and Supervision scheme at a local level; and decision-making processes in a court setting.

In the object formation phase the development of the scheme was framed principally within the YOT, rooted in a cultural frame informed by the Government and YJB, as well as practitioner history or practice and the local history of bail support provision; although also with some pre-agreement from other relevant agencies. This study therefore incorporates an understanding of how policy is developed at a macro level, exploring: the basis for New Labour policy; the particular aims of Bail Support and Supervision, including particular target groups and their identification; and how such an approach is seen as able to achieve such goals. This understanding can then be seen to be conveyed to local Youth Offending Teams in the form of standards, protocols, guidance, targets and assessment tools. An exploration of the development of the scheme at a local level reveals how this is translated by managers and

practitioners into day to day working practices, and thus how the object as set out by government is transformed into a set of ideal and material objects governed by both macro and micro pressures.

As the scheme moves through its various phases of development, operationalised in relation to the local context and external pressures, the perspectives and actions of a range of stakeholders from other communities of interest, can be seen to influence the transformation of the system. At this stage we might presuppose that broader relations between relevant agencies might influence the development of the scheme. In addition, the cultural frame of other participating communities of practice and their influence on the activity under investigation must be understood. In particular the development of the scheme is further influenced by the decisions made in court by a large number of magistrates amongst whom the government agenda might be viewed very differently. If we take as a given that each case is dealt with on its individual merits, based on the evidence available and the interpretation of this by a bench of magistrates, we must then seek to explore the framework within which these decisions are made.

Figure 3.1 illustrates the web of agencies and influences involved in the youth justice system more broadly, and therefore maps the range of stakeholders involved in either (or both) national policy development or local policy and practice development.



**Figure 3.1. The complex interactions of youth justice policy development and delivery**

Despite its complexity the diagram must be considered a limited interpretation.

Clearly the intricacy within organisations is intentionally not reflected. Similarly it does not attempt to describe the relative strength and direction of influence between groups and agencies. It is also plainly incomplete. For example, the media can be seen to influence all agencies and the individuals within them, whilst personal positioning and the polycontextual nature of individual activity cannot be shown.

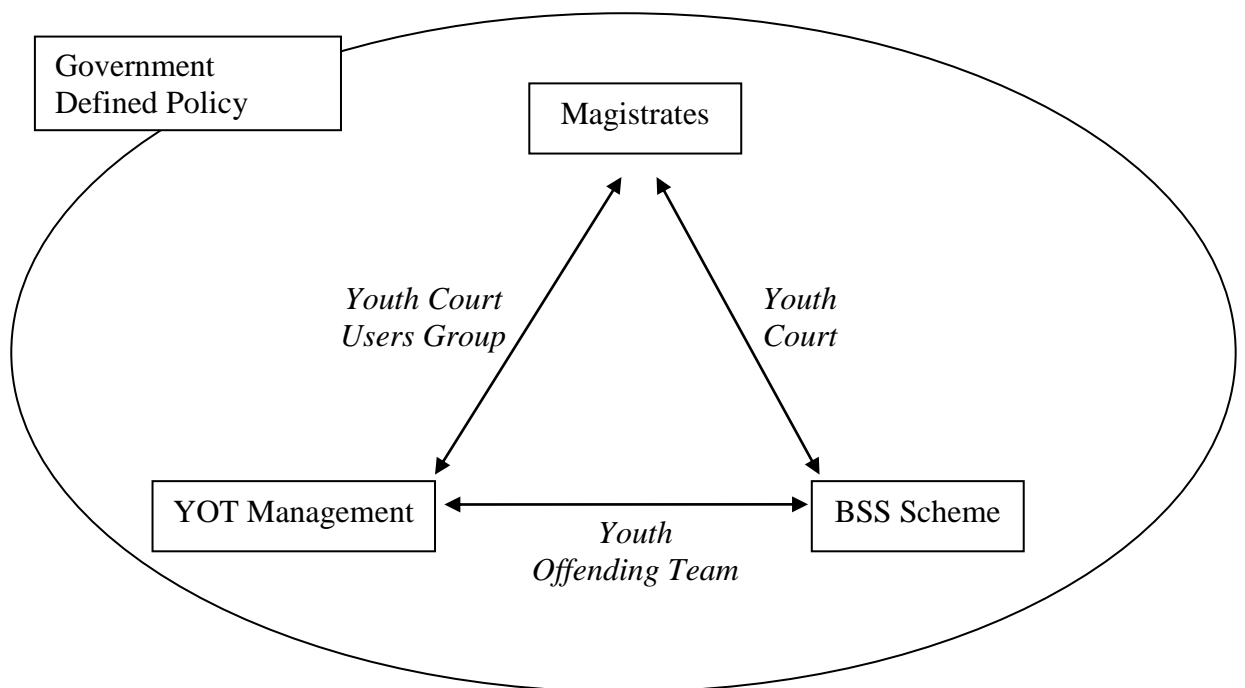
Some of this is unpacked both in the discussion below and in the following chapters.

For the purposes of this section however the diagram serves to demonstrate the range



of factors, agencies, stakeholders and systems co-existing and reciprocating through interaction.

The development of the Bail Supervision Scheme within the case study site can therefore be placed within this wider policy development and delivery context, and thus the broad range of groups and factors influencing the scheme are not forgotten here. Rather they are explored through their influence on the zones of interaction to which I had access and could therefore investigate, bounded as they are by the regulations imposed by government policy. The context in which the scheme is developed is explored through the interaction between the three key stakeholder groups as illustrated by Figure 3.2.



**Figure 3.2. Zones of interaction between key stakeholders**

To study the central activity requires an exploration of the transformation of the object as it moves through the various spaces and interactions between the subjects in this and the neighbouring activity systems. At each stage of the development of the scheme we must therefore understand the boundaries between activity systems and other communities of interest, and explore the boundary processes and boundary crossing objects and actions that intersect them. Between the government and the local implementation this can be seen to include the role of Nacro Cymru as national evaluators, the performance management undertaken through monitoring, and the imposition of standards. Within the context of the local Bail Support and Supervision scheme opportunities for exploring the interaction between the relevant communities occur through the youth court liaison groups as well as in everyday interactions within the youth court.

As described in the introduction, this study comprises two phases. In the summer of 2000 the University of Warwick was approached with a request to act as local evaluators for a BSS scheme within a neighbouring local authority. The decision was made that the funding for this evaluation should be used to sponsor a part-time doctoral student, with a thesis planned to be developed from an initial phase of formal evaluation. To this end I began my role as local evaluator in December 2000, with the requirement to undertake the evaluation prescribed by the national evaluators as outlined below. At the outset agreement was reached that I would maintain a presence in the YOT beyond the timescale of the national evaluation and would be supported in gaining access to relevant settings. The exact nature of the ongoing research was not prearranged however and developed as outlined below. The initial formal evaluation role clearly provided the opportunity for important purchase on the initial object

formation phase, in terms of the inner workings of the local YOT and the formal guidance and protocols prescribed by central government. Furthermore through the various stages of the local evaluation I was able to trace the development of the scheme over time. The nature of the local evaluator role is outlined in more detail below. Alongside and on the completion of these formal requirements I was able to extend my evaluation to better understand the development phases of the scheme from the perspectives of the other participants, through an improved understanding of the communities involved as well as the boundary processes through which interaction is played out.

### **The role of BSS local evaluator**

My role as local evaluator was defined by a series of documents written by various stakeholders, principally including the Bail Support Policy and Dissemination Unit (BSPDU), Nacro Cymru, and the local YOT. Together these documents make reference to a variety of requirements of the evaluation at both national and local level, mirroring the range of objectives of the schemes. Nacro Cymru (2000) set out the ‘Aims of the evaluation’ as applicable to all local evaluators of BSS. Firstly local evaluators were required to ‘Review how projects and packages of support achieve the Board’s 3 key objectives.’ The evaluation should explore: how alternative accommodation provided by the scheme is effective in reducing the number of young people in custody, residential care or other sorts of remand; the types of support packages that are effective for young people that have been accommodated; the extent to which provision of Appropriate Adults are effective in directing young people to BSS and impacting in minimising overnight holds. In addition there was a

requirement to ‘Review the progress of projects against their locally agreed objectives to identify how they contribute to the national aims for bail support.’

The stated objectives of Nacro Cymru, as the national evaluators, included the following.

- ‘Review all procedures, processes and outcomes that occur during either the bail support period, as a result of being placed in an accommodation project or through the provision of an Appropriate Adult service at the police station, or a remand or accommodation episode.’
- ‘Assess whether the service is responsive, effective and consistent in supporting and assisting young people.’
- ‘Identify appropriate and effective practice, from which informed conclusions can be drawn about the overall impact of the project.’
- ‘Examine the various methods and approaches, to identify what works in relation the objectives.’
- ‘Examine the management and development of these services.’

This final element was said to include an analysis of methods of recruitment, assessment, training and retention of carers and accommodation providers, or Appropriate Adults. The broadness of a number of these objectives reflects the fact that my role as a local evaluator was essentially defined in terms of its support for the national evaluation, which based much of its analysis on the work of local evaluators. The priority was therefore to ensure local evaluations were of a certain standard and structure, and thus comparable and covering a range of key elements. My role was seen to incorporate the production of “full evaluation reports which specify the

benefits of the initiative and its impact on (re)offending or other relevant variables” (Nacro Cymru, 2000). Six such reports were required at three-monthly intervals, operated to a strict timescale. However I first visited the Bail Supervision Scheme in December 2000, eight months after the scheme was originally launched. The first evaluation report had therefore been written by a senior YOT officer.

The make-up and coverage of these reports was prescribed in some detail:

The Bail Unit will be requesting reports that use key headings, to facilitate the comparison of data across 119 projects. (Nacro Cymru, 2000)

Even the topic areas and specific questions for the five reports through to December 2001 to be addressed had been defined at the scheme’s inception, through the ‘Framework for Evaluation for Projects Funded in the Grant Round for Bail Support’ (Nacro Cymru, 2000). In addition to prescribing the number and nature of reports the Framework also outlined the ‘components’ or ‘methodology that may be used to inform the content of the reports.’ (Nacro Cymru, 2000) This included the following principle methods:

- Interviews with YOT staff
- Observation of relevant activity
- Analysis of the routine data collected by the local BSS Scheme, including monitoring data and Bail ASSET forms.
- Case studies of individual children.
- Assessments of provision completed by young people

There remained, however, an understanding that these methods would range in appropriateness between projects. There was, therefore, some freedom in which to operate. I outline my chosen approach below.

### **Observations and interviews in the YOT setting**

The 'Terms of Reference' outlined by the BSPDU (2000b) also stipulate the role of the Youth Offending Teams in supporting and facilitating local evaluation. Funding for the BSS scheme was contingent upon independent reports being written with the threat of financial penalties should this not be fulfilled. In addition the YOT was required to 'Provide information to the local evaluators to assist them in producing their progress reports.' (BSPDU, 2000b) As such the YOT afforded me access to all relevant subjects within the development of the scheme ensuring I enjoyed unrestricted access to the research setting. Over the period of the first phase of the evaluation I was therefore able to interview a range of staff within the YOT. My approach to these interviews varied across this range, with frequent, informal discussions seeming more appropriate for those I had day-to-day contact with, and more formal and structured interviews used in six-monthly meetings with senior YOT staff. Due to the management's obligations to support my evaluation, I was given access to interview the most appropriate senior members of staff prior to each evaluation report. This provided an opportunity to reflect on my more informal questioning of practitioners, as well as to seek information on wider strategic developments within the YOT. Three such meetings were held with the senior YOT manager with irregular but more frequent meetings with the Operational Manager with responsibility for pre-trial services.

This process of interviewing must be seen in tandem with the ongoing observations of the BSS and wider YOT team used to frame and guide my discussions. Prior to starting the evaluation I spent a week based at the YOT offices, following an induction process similar to that completed by new members of staff. This included: interviews with those who set up the project; a day spent in court experiencing the full range of processes undertaken by YOT workers; various meetings with senior management with a range of responsibilities, many of which proved important in the development of my study; discussions with the various different professional groups represented within the YOT, including police officers, social workers, probation officers, and administrators. These discussions were principally used to understand how the work of these various groups fits together in terms of the YOT and more specifically BSS, and thus as a means to understand the operation of the organisation. These discussions were arranged not as interviews but as informal conversations. Therefore I did not feel it was appropriate to record, or even to try to stick to a structure during these discussions (although there were obviously things I wanted to ask everyone). Instead it proved far more rewarding to use it as an exercise to settle into the team, to get my face known, and to establish good working relations with the full team that I could draw on later. Contemporaneous field notes were taken however.

From my first visit onwards I have attempted to remain a recognised face at the YOT. I therefore based myself at their offices one day a week for the first year, even when I was working on things that were not connected to this study. Through the unparalleled access afforded by sharing an office with those I was researching, I was able to gain a greater understanding of their day to day experiences in developing the

scheme, observing people's ways of working, including their priorities and concerns. This observation then provided the basis for subsequent interviewing. The methodological considerations regarding this combination of observation and semi-structured interviewing are considered towards the end of this chapter, where such an approach is further justified and its appropriateness to an activity theory framework explicitly considered.

### **Analysis of secondary data**

In addition to my own data collection there was a range of other information available to me already being generated by the team. Substantial literature has been produced both nationally and locally, including the national evaluation reports and YJB-produced guidance, and the local literature aimed at relevant stakeholder groups. The government and the YJB currently prescribe a wealth of monitoring and assessment completed in the youth court to illustrate what decisions were made and how they were reached. Of particular relevance to remand decisions is the Bail ASSET, provided to YOT workers in assessing young people. A sample of completed Bail ASSET forms was used to ascertain who is being deemed suitable for the programme by youth workers, and how these opinions differ from decisions made by magistrates. The Bail ASSET is designed to address a child's offending, bail and remand history and, in doing so, covers critical issues regarding personal and social circumstances that might indicate vulnerability, and/or suggest the most suitable bail and remand decision. These forms therefore show the criteria followed by the bail officer in assessing the recommended action for a young person, as well as the eventual court outcome as decided by the magistrate.



A further requirement of the YOT was to ensure the completion and submission of quarterly monitoring statistics in a database format provided by the BSPDU. This data is of obvious importance to the local evaluation, particularly in relation to performance assessment against the objectives outlined by the YJB. This data gives a wider understanding of who has been assessed as suitable by both the youth workers and magistrates, as well as highlighting what might be perceived as successes and failures for the project that may influence future decisions made by all relevant actors. This data is available for decisions made as far back as the project's inception in April 2000. This allows for an illustration of trends within the scheme's development, particularly around the prescribed targets, aims and objectives.

As a further element of my study I undertook a small number of case studies of young people made subject to BBS. This was to provide a more in-depth understanding of how the assessment process and subsequent needs identified by the bail workers translated into a package of support for young people, and therefore provide a better understanding of the aims and objectives of BSS provision as understood by YOT workers. This was further supported by a collection of assessments of provision completed by young people at the conclusion of their BSS intervention, collected as part of the evaluation process. These assessments constitute the young person's perception of whether the objectives as outlined by the YOT worker at the beginning of the intervention have been addressed during the process, and whether any differences have been made.

### **The development of the doctoral study through a second phase of evaluation**

The combination of these methods allowed for the tracking of the development of the scheme from the perspective of the range of YOT officers and managers involved.

Whilst the structured and formal nature of this role can be seen to have been beneficial in gaining access to and therefore an understanding of the stages of development of the local scheme, some limitations with regard to the overall aims of my study are evident. The prescriptive nature of the reports, together with the workload they required, limited my opportunities for wider investigation and did not gain me access to the full range of subjects relevant to the transformation of the object. Although laid out in the terms of reference of my role as local evaluator (as described above), the nature of my doctoral study had to be negotiated with other relevant groups. The extension of my study, alongside my formal role, was therefore an attempt to gain a fuller understanding of the range of subjects and communities whose perspectives can be seen to influence the development of the scheme, and the boundary objects, processes and interactions through which the dialogue is played out. To this end, I explored the objectives, targets, assessment criteria and decision-making tools employed by each group within the relevant settings, and the cultural frame that can be seen to be informing such a perspective. As such I sought to highlight the range of macro, meso and micro level influences on the development of the local BSS scheme. In order to do so I undertook the following elements of research each of which is detailed below:

- Analysis of recent national policy on bail and remand, and how this fits with wider youth justice and criminal justice policy.
- Comparison with data collected by Nacro Cymru as the national evaluators of BSS.

- Interviews with other court users.
- Observation of relevant activity.

As has already been described, the proceeding chapter will outline the development of current youth justice policy in the context of the managerialist state and the range of other influences purported to affect government thinking. In particular I place bail and remand policy within this broader agenda, highlighting the inherent contradictions as well as the more obvious consistencies.

During the course of my study the analysis of the national evaluator, Nacro Cymru, has also been made available. This provides opportunities for comparison of the local area to the national context, and in particular some comparison with other areas of the country with historically high remand rates. One of the aims of this document is to highlight areas of best practice, as well as common held problems.

Another key element of my research was the interviews with relevant key actors within the youth court setting. These interviews sought to understand the perceived object of activity for each group, influences and criteria in their decision-making processes, their understanding of the scheme, its aims and objectives, and any conflicts between, or even within, perspectives on it. As part of the extension to my study, I was able to negotiate access to the Youth Court Users Group (YCUG). This group is comprised, as the name suggests, of all the different roles involved in the court setting: YOT representatives, defence and CPS solicitors, clerks and magistrates. Through this group I was able to access those magistrates who comprise the Youth Court Reference Group (YCRG). This group is formed of the magistrates

who sit on the bench weekly, and chair the court whilst present. Due to the frequency in which they sit in court these magistrates had served with a large number of others and were therefore able to give an opinion on the range of views amongst the bench. In particular, these interviews sought to question magistrates about their decision-making, eliciting information regarding their views on bail and remand decisions in general, including factors that influenced their views on whether or not a particular young person was suitable for a bail package. I attempted to gain an understanding of what influenced them to become a magistrate, and to extend this where possible to form an understanding of the cultural frame upon which they have developed their perspectives on youth crime and remand issues in particular. As such, consideration was given to ideas of polycontextuality regarding professional, family and social backgrounds. Furthermore, I sought to explore their knowledge of the BSS scheme, including how they were made aware of the new scheme, and training that might have been provided to them, and any input they felt they had or would like to have had into the development of the scheme. Eight such interviews were carried out, ranging from twenty minutes to an hour in length.

In addition I attempted to negotiate similar contact with both CPS and defence solicitors. Within this particular youth court there exists a small number of specialist solicitors working for the Crown Prosecution Service, as well as a small number of defence solicitors handling a very large proportion of youth court cases. My intention was to undertake a small number of interviews with each of these groups.

Unfortunately my request for access to interview CPS solicitors was refused by the Chief Clerk, whilst of the 6 defence solicitors I wrote to none were willing to meet with me. This remains a gap in my study, leaving one group of influential actors

within the youth court setting underrepresented. The implications of this omission are addressed in the course of the discussion of the data.

To further understand the objectives, targets and assessment criteria of each group, and to explore the interaction between the key participants in every day practice, I also sought to observe activity in two further settings: the YCRG, and the Youth Court. Although attending YCRG meetings principally to gain approval for my research, I was able to observe the workings of these groups and therefore the interaction of the participants within one of the key boundary processes. Furthermore by attending Youth Court, and discussing cases with the key decision makers as they arose, I was able to understand better the realities of decisions made. Once more access to the participant groups took individual negotiation. Relationships with bail workers meant I was able to attend youth court with them. Furthermore I was able to coordinate visits with magistrates from the YCRG such that I could attend on days when a member of the group was chairing the Bench. I was therefore able to interview the magistrates, and in some instances their colleagues on the Bench for the day, shortly after the completion of the session and to therefore draw on specific cases where appropriate. Whilst the number of bail cases in which a remand into custody or a referral to the Bail Supervision Scheme is a possibility is fairly low (on some days there were none), observing in such a way allows for an appreciation of working practices and interactions, and therefore a better understanding of another key boundary process. Contemporaneous field notes were taken during all these observations to a structure in keeping with the activity theory framework as outlined below.

In summary, this thesis therefore draws upon the following data sources:

- Participant observation within Youth Offending Team from September 2000 to April 2004.
- Informal interviews on a regular basis over the same period, ranging from naturalised conversation to three-monthly discussions with the Bail Coordinator.
- Formalised interviews with YOT management, including 3 six-monthly interviews with the senior YOT manager (December 2000, June 2001, December 2001), and irregular but more frequent interviews with the relevant Operational Manager with responsibility for pre-trial services between September 2000 and April 2004.
- Monitoring data for period April 2000 to December 2001, collected by the local team for return to the Bail Support Policy and Dissemination Unit
- Observations of three Youth Court User Group and four Youth Court Reference Group meetings between June 2003 and March 2004.
- Eight interviews with magistrates between December 2003 and March 2004.
- Six days spent formally observing in the youth court between June 2003 and February 2004.
- Four days spent informally observing in the youth court between January and December 2001.

### **The limited involvement of young people as research participants**

Whilst the views of other youth court professionals were sought but not realised, the input of young people was intentionally restricted, for both theoretical and practical reasons. This limited participation mirrors their limited involvement in the activity systems under investigation. In the narrative of chapter 4 the input of young people and parents is seen to be absent. During its development within the YOT the views of those subject to the scheme were not sought. Similarly within the youth court those young people facing bail and remand decisions represent members of a community of

interest rather than active subjects (except in special cases where the young person refuses to comply with the bail package put forward). During proceedings the young person is rarely engaged directly. Instead it is the solicitor and youth worker who speak on their behalf, with the outcome of the case negotiated in this dialogue. As members of the community of interest they clearly impact upon both activity systems. For example, within the youth court the young person may be the basis of a contradiction between object, tools and community. However young people are not active subjects within either system, and therefore not a primary lens through which to explore activity (Popova and Daniels, 2004)

Despite not being subjects within the systems, it is likely that the views of those facing remand decisions or subject to the BSS scheme would have offered interesting and useful perspectives on the activity of the two settings, providing a means to challenge dominant discourses and perceptions as to intended and actual activity. As such given the opportunity I would have sought a greater involvement. However practical concerns inhibited this. During my period as the formal local evaluator of the project my capacity to go beyond the script provided by NACRO and the YJB (as detailed) was limited. Furthermore access to those subject to the scheme was not welcomed by the YOT beyond the completion of a basic 'tick-box' evaluation form. Primarily this was due to the limited time the team have with any young person whilst subject to the scheme and an unwillingness to use those sessions for evaluation purposes. Access to the young person within the court setting was also problematic. In this case the vulnerability of the child provides ethical considerations that combine with the limited time available during and after the court appearance.

### **Observation within an activity theory framework**

The discussion above reveals the primary importance of observation in the various settings of the YOT, youth court and youth court liaison groups to my methodology both directly, as a means to explore actions and processes, and indirectly, providing the focus for subsequent interviews. The following discussion examines the issues I considered in undertaking this observational work, seen to be of particular relevance to the activity theory framework I operated within.

Quoting Agar (1986), Silverman (2001) argues that it is not always appropriate to work to the 'received view' of science as hypothesis testing. Instead enquiry should be focussed on asking 'what is going on here?' In these instances:

Hypotheses, measurements, samples, and instruments are the wrong guidelines. Instead, you need to learn about a world you understand by encountering it firsthand and making sense out of it. (Agar 1986, as quoted by Silverman, 2001: 43)

This is, however, not to dismiss the relevance of scientific testing through observational research. Drawing from Bryman (1988: 61-6), Silverman asserts the importance of 'viewing events, actions, norms, values, etc. from the perspective of the people being studied'. Observation is seen to aid contextualism 'attending to mundane detail... to help us to understand what is going on in a particular context and to provide clues and pointers to other layers of reality.' As such, observation allows the researcher to view 'social life as involving interlocking events' and thus avoid 'a taken-for granted version of the setting'. In doing so the researcher should avoid 'early use of theories and concepts' so as to not impose theories and concepts that don't reflect participants' perspectives.'



Such observation is very much in line with the methodological assertions of activity theory outlined above. The researcher should not draw on commonsensical perspectives, focusing on what is done as opposed to what is said to be done, not accepting statements regarding the object without also observing activity as it occurs, and as such able to separate the abstract and ideal from the concrete and material. For this reason there is a need to get close to activity. Whilst an interview reveals what is said to be done, observation and close working reveals what is actually done. In activity theory terms this allows us a better insight or a different perspective of what the object of activity is. For example, the object identified through interviews might be a long-term idealist object where as the day-to-day object might be less ambitious. Similarly through observation the researcher may get a better understanding of the impact of rules and tools on activity. A different set of norms, rules, and relations, perhaps not conscious to or taken for granted by the interviewee, might be observable than those articulated through discussion.

### **Relations in the field**

In developing good relations in the field, Silverman (2000: 197-209) argues for overt access, with subjects informed of the full nature of the study before agreement, often through gatekeepers. Five factors in securing and maintaining overt access are described, each of which I have attempted to utilise. Firstly 'impression management' or 'fronts' (Goffman, 1959) underline the importance of conveying an appropriate impression (Hammersley and Atkinson, 1983: 78-88), and, more specifically, not giving an impression that might pose obstacles to access (although it is not clear whether this can mean a false impression).

The subject's view of the researcher is potentially vital to the research project.

Attention must be paid to how researchers may be perceived by interviewees, based on perceptions of social identity. A lack of appreciation for this dynamic means that academics 'do not give enough emphasis to how researchers may react to how interviewees have positioned them' (Song and Parker, 1995:159, cf. Hughes, 1992).

A researcher's identity in the eyes of those being researched is immediately affected by his or her role as an academic. Some groups may be influenced by the presence of a researcher so that more covert, complete participation is needed (Burgess, 1982b). This could feasibly cause unnatural behaviour or the untruthful answering of questions based on perceptions of what the researcher wants to witness. Alternatively some subjects may be suspicious of the researcher's motives, or simply anxious in a situation in which they are being studied by a stranger. It is therefore the researcher's responsibility to ensure an understanding is formed and that the subjects feel comfortable with their presence. However 'going native' is seen to effect the research role by making the carrying out of some activities more difficult. The researcher should seek a 'dual role' as insider and outsider, avoiding over identification and over rapport (Burgess, 1982b).

During the early stages of my research, due to the formalised nature of the evaluator role, it was clear that there had been much apprehension about my role amongst the BSS team. The Bail Coordinator was new to such a position and had no prior experience of being evaluated. Other staff were similarly wary, with my first visit to the team clearly having been hyped up. I was later told they'd had lengthy

discussions about what they expected me to be like, even down to the details of whether I would carry a clipboard. Given this obvious apprehension it was clear from the outset that formal approaches would not have been the most effective.

The importance of informal interaction between researcher and researched also needs consideration.

Whether or not people have knowledge of social research, they are often more concerned with what kind of *person* the researcher is than with the research itself. They will try to gauge how far he or she can be trusted, what he or she might be able to offer as an acquaintance or a friend, and perhaps also how easily he or she could be manipulated or exploited. (Silverman, 2000: 197, citing Hammersley and Atkinson 1983)

In discussing perceptions of a female researcher entering a predominantly male environment, Rebecca Horn (1997: 303) describes the need to create an identity for herself that everyone involved in the research setting is comfortable with.

The researcher's response to participants' perceptions of her, and their resulting behaviour towards her, is a significant factor in the role she negotiates, and the extent to which she is accepted.

This is seen to include tolerance of mild sexist remarks and flirting. Had she been too quick or too heavy in any confrontation she felt she would damage the rapport, lose access, jeopardise her study, and find herself labelled and outcast. This may be similarly true in other situations, although sacrifice or pay-off may not be as extreme as accepting sexist behaviour. For example, as a doctoral researcher workplace banter revolved around views of me as a student, and therefore lazy and needing to 'get a proper job'. As Thomas J. Cottle states when discussing his life studies of families in

poor neighbourhoods of Boston, 'to gain the confidence of [those we studied], and to be certain that what we experienced was 'valid', the setting and relationships had to put us all at ease.' (Cottle, 1982:124) The ability to do this however is clearly determined by the researcher's propensity to interact with their subjects.

The informal component of the relationship between researcher and researched also implies that there is no 'time out' in field relations, meaning judgements will also be made on informal occasions (Silverman, 2000). Such occasions are also opportunities for researchers to develop relations with research subjects. Indeed such social occasions played an important role in my own attempts to become accepted and trusted within the BSS team, by being seen as something other than an evaluator, and also in building up relations with the wider YOT team including some senior managers.

The second factor raised by Silverman (2000) relates to the importance of 'obtaining 'bottom up' access'. The agreement and support of those you are working with is seen as equally as important as those acting as gatekeepers or those who commissioned the research. Researchers need to make concessions, for example not tape recording in sensitive situations. In my own experience I found this to be equally true in when access is formalised through a prescribed evaluation that those being evaluated are contracted to take part in. When the research subjects have no choice but to participate, there remains a need to secure co-operation. I attempted to achieve this through ongoing dialogue regarding the remit and coverage of my study, thus giving the subject a participatory role, and by taking on additional roles as and when I could make myself useful.

A third factor is the need to be ‘non-judgemental’ regarding values, practices, and professional perspectives. This can of course be difficult when the researcher is perceived as an evaluator, especially within an organisation with tight targets and outcome indicators, and a culture of being performance managed. In such an environment it is difficult to view the evaluator as anything but threatening. Silverman calls on the researcher to avoid assumptions of superiority of knowledge. In addition I would argue that the subject should be reassured of their expertise regarding the research topic, particularly at the start of the process, if not throughout. To this end I presented myself as the novice in the field, there to learn and to represent their work as opposed to comment and criticise. Importantly, this also allowed me to question everything, even (indeed especially) the taken for granted daily actions and operations; a crucial requisite to understanding activity.

There is also potential benefit in ‘offering feedback’ (Silverman, 2000). In some instances judgements may be wanted, and seen as a ‘pay off’. I see this ‘pay off’ as potentially going far beyond feedback to the variety of ways in which I have been able to assist the scheme. My role in relation to the team has been solidified by serving a useful purpose to them beyond a local evaluation. During the first phase of my research I attended several Youth Court User Groups as evaluator of the BSS scheme, reporting evaluation findings and presenting monitoring statistics. Furthermore, I was able to offer additional support to the BSS team as and when required, for example in developing monitoring procedures. At various times during the evaluation process I was asked for my advice on issues relating to data analysis and presentation, and to comment on documentation.

Silverman's (2000) final point relates to 'establishing a contract' by which the role and remit of the researcher can be understood by everyone involved. Whilst Silverman refers to anything from a basic information sheet, given the formal and statutory nature of my role I was able to outline particular terms of reference, including the range of enquiry, ownership of the data, and publication rights. This was of particular importance as I extended my evaluation into the second phase of my doctoral study.

Taken together these means of improving relations in the field can be seen to offer much to the endeavour of understanding activity. As well as providing license to ask numerous questions, as noted above, it can be seen to aid attempts to ensure that what is observed is 'normal' behaviour, as opposed to being affected by the observer's presence. This issue is discussed further below.

### **Potential problems in observation**

A researcher faces several potential problems in undertaking observation. With each such issue raised I attempt to defend my own approach or at least evidence awareness within my research design. A focus on the present can blind the participant observer to important events that occurred before entry onto the scene Silverman (2001: 58, citing Denzin, 1970). Activity theory clearly tries to counter such a focus, rooting all activity in its socio-historical development, and explicitly exploring the historical construction and contextualisation of 'rules' and 'tools'.

Concern that informants in social settings may be unrepresentative of the less open participants is a further consideration (Silverman, 2001, citing Dalton, 1959). This suggests a need to gain acceptance from all those involved in the activity under observation, and mirrors Silverman's own assertion to gain 'bottom up' access as discussed above.

Researchers must also bear in mind the possible interpretation of single events to fit the pre-designed viewpoints of the researcher (Becker and Blanche, 1982). Similarly visible phenomena can be used to build conclusions on things that were less visible, suggesting hypothesis building based on little appropriate data. There is therefore a need to undertake a 'systematic analysis of all data' and to explain 'assumptions underlying' any conclusions made (Becker and Blanche, 1982). This can be seen to be particularly relevant to my work within the youth courts. As noted above I was only able to observe a relatively small number of BSS and custodial remand decisions, and therefore only a small range of the variety of cases. Caution is therefore taken in making any bold statements without referral to the wider data available in the monitoring and assessment data. Instead therefore my courtroom observations are used to understand the boundary processes between key stakeholders, and to find instances of certain activity with which to support findings from elsewhere, rather than categorising and coding occurrences regarding what might influence decisions.

Further concerns regarding the association of observers with participants as they 'go native' are also important, with the possibility of 'identifying so much with the participants that, like a child learning to talk, they cannot remember how they found something out or articulate the principles underlying what they are doing.'

(Silverman, 2001: 58) This can be seen to be particularly pertinent regarding evaluation. The researcher might identify too much with those he or she is evaluating and therefore seek to represent positively. In contrast, however, there is also importance in forming enhanced relationships when carrying out in-depth interviews that rely on personal information that would not be provided if the informant did not feel comfortable (Cannon, 1992:171). Rejecting the idea that such a relationship leads to impressionistic research, Cannon believes it allows for the most meaningful data from the researcher's point of view (Cannon, 1992:162). James Ptacek also holds this opinion, believing that in-depth interviews, and in fact other qualitative methods, allow for the formation of the understanding needed to truly explore a 'respondent's perceptions, feelings and rationalizations.' (Ptacek, 1988:136)

Whatever the choice of qualitative methodology however, when involved 'in the study of human conduct, researchers can never be entirely detached from those they research.'(Collinson, 1992:117) In any scenario 'perceptions and analyses of the settings are influenced by the personal relationships that [researchers] form with their informants' (Burgess, 1982:46). Discussing the '...Personal Aspects of Fieldwork', Herbert Gans argues that a researcher faces internal pressures to become involved in the group, partly in order not to alienate those being studied. There is also a natural urge to be liked by those around you, to make friends and to feel part of the group. Naturally through this involvement 'the fieldworker, no different to anyone else, forms likes and dislikes' amongst those he or she has contact with (Gans, 1982:55-6). Furthermore in an anthropological situation the researcher is likely to form relations with his or her subjects outside of the research setting (Hoff, 1988:277). Clearly such



relationships have the potential to hinder the truthful representation of the scenario under study.

This holds some relevance to my own experiences, with some of the YOT staff perceiving me to be associated with management. By providing help to those I was working with however I attempted to break down such perceptions, for example, helping with monitoring data management and offering an extra-hand in court for menial tasks such as photocopying. These issues can be seen to be part of a wider concern about the social identity of the researcher, both in terms of how the researcher perceives the research environment and in turn how the researcher is perceived by the research subjects.

Such an approach is however clearly at odds with H. M. Collins' idea of 'unobtrusive observation', through which the researcher observes the actions of his or her subjects while disturbing them as little as possible. The principle behind this is that only without the distortion that researchers inevitably bring to a situation can we really see what goes on (Collins, 1984:56). Collins is immediately critical of such an idea however, believing a degree of interaction to always be necessary. Furthermore he argues that 'even the most careful unobtrusive participant observer may disturb the situation without realising it, so the observations can never be assumed to be completely free of distortion.' (Collins, 1984:57) Positivist approaches try to 'deny any relationship' between researcher and respondent, thus losing 'a great deal of the complex social conditions, context, and consequences of organisational practices' (Collinson, 1992: 112)

Alternatively, recognising that a relationship exists between researcher and researched, not only allows a much broader set of issues to emerge, but also facilitates a clearer understanding of the status of the data. (Collinson, 1992: 112)

The alternative Collins seems to espouse is that of 'participant comprehension', through which participation is maximised, and seen as 'central, irreplaceable and, indeed, the essence of the method.' If complete 'native competence' can be developed then the end point is a total understanding of the environment, and 'the distinction between observer and observed is blurred.' (Collins, 1984:60-1) Personal involvement is more than just potential bias, it is the way in which we are able to know each other and hence to understand each other's lives (Hughes, 1992:51). Thus, as argued by James Ptacek, rather than trying to prevent every aspect of unwanted researcher influence, the true importance is in 'accounting for the motivation and self-presentation of the researcher in the write-up of the study.' The need to understand how the study was carried out, and the results arrived at, must also include a discussion of the position of researcher, his or her relations with the researched, and therefore the perspective adopted. By doing this readers are able to 'gauge the impact of the researcher on the subject of the research' for themselves (Ptacek, 1988:136). Even this stance however is in my opinion open to criticism. It seems to suggest that a researcher is capable of recognising every element of their identity that may influence the research process. Hence it ignores the subconscious affect of experiences, values and expectations on a researcher's perceptions and observations.

In respect to the 'obtrusion' caused by observation the two environments in which I operated represent two very different types of observation. Within the youth court, where I am arguably invisible, sat at the back without interrupting or changing

anyone's formal role, Collins' notions of unobtrusive observation may hold true. In contrast my observations of BSS team were designed such that I would become part of the furniture, there long enough to drift into the background and not alter how they go about their work, or what they say to each other. Thus perhaps here also I can argue that I observed so much that I became unobtrusive. I made no attempts to blur the distinction between myself and the research subjects, merely to encourage acceptance and natural behaviour in my presence. In the context of such a professional environment I am not sure that native competence is in fact possible. Indeed, as noted above, my relative incompetence in such a professional setting allowed for extensive questioning rather than assumed understanding.

This debate regarding obtrusion is particularly pertinent in an activity theory conceptualisation of the research focus. By being in the setting and interacting with the subjects of the setting under observation the researcher becomes part of that system, in the least as part of the 'community' but potentially as 'subject'. In this case the active role in writing evaluation reports and feeding back to those delivering the scheme positions me as a subject within the system, or as the producer of some of the rules and tools of the system. By highlighting (and potentially even causing) tensions and contradictions I am at the same time contributing to the system's transformation. As such in activity theory the researcher is part of the activity system and therefore of the focus of the research. This is an issue to which I will return in my conclusion, having overtly highlighted the seeming influence of my role on the activity I describe in the intermediate chapters.

### **Observation as the basis for interview**

The significant amount of observation also provided the basis for the subsequent interviews carried out at each stage. As described above the majority of conversations carried out in the field were of a semi-structured nature, occurring when opportunities arose and focussing on recently observed activity. By becoming a regular feature of the YOT, I sought to build strong, professional relationships with the staff, and to therefore be able to join in office based conversations regarding working practices. This I believed to be preferable to a reliance on interviews resulting in one-off recollections of the previous few weeks or months. Subsequently a large amount of my data is not in the form of recorded or even structured interviews. Instead it proved far more productive to ask questions as and when they were needed rather than conducting formal interviews which would have had the feel of evaluator interviewing practitioner and therefore potentially inhibited relations. My approach was conducive to building firm relationships and understanding how they truly operate or act, and thus once again in keeping with the principles for activity theory research outlined above.

Instead therefore I made copious contemporaneous field notes, scribbling after conversations over coffee, and having to rush off at the end of conversations to write everything down before I forgot it. Silverman (2001: 64) stresses the importance of such note-taking but warns of the contrasting dangers of recording everything without thought to theory-driven nature of research, or using too rigid a coding scheme, based on given set of categories and thus ignoring uncategorised activities (Atkinson, 1992). Silverman (2001: 161-2) also stresses the importance of recording discussions where possible, to evidence 'naturally occurring talk', in preference to relying on notes or

recollections, in order to remember pauses and overlapping speech, by replaying the recordings. However this says nothing of the problems of not being able to record in certain situations. In trying to develop the necessary relationships a tape recorder would have presented a significant barrier. Through the theoretical framework provided by Engeström and developed elsewhere, I have demonstrated the broad structure that activity theory has provided on which to base observations and thus note-taking, and to attempt to overcome these concerns as much as possible. Although these notes are structured by nothing more than a grid containing the components of Engeström's triangle, I believe this structured approach to have been key to my data collection and subsequent analysis.

These notes subsequently guided the undertaking of interviews, providing a topic guide as well as concrete examples to draw upon. However I resisted the opportunity to develop tightly structured interviews due to their seeming inappropriateness to my chosen approach. The use of semi-structured interviews within an activity theory framework can be seen to allow for the respondent to construct the data by choosing, to a certain degree, the topic of conversation. Thus such an approach might be seen to prevent, or at least discourage, the construction of the object through the questioning of the interviewer as opposed to the focus of the interviewee. The interviewer role must be seen to be the means to articulate the object of activity and to understand the constituent elements of the system, rather than to explicitly question around pre-conceived ideas about what the object might be and how the other elements of the system might relate to this. Whilst the prescribed standards, protocols, and assessment tools provide a formalised version of what activity should be based upon with which to interrogate that which is observed, through observation I can hope to

understand the reality and complexity of decision-making, beyond the more simple basic criteria suggested by assessment forms. By being there regularly over a period of time I was also able to draw on recent cases of which I was aware without relying on the memory of the YOT workers or their short summaries and representations of cases. As well as providing further opportunity to understand the concrete as well as the abstract, idealised representation, such an approach is also clearly key to understanding the multivoicedness of the system and the boundary zones.

### **The conformity of methodological approach to theoretical principles**

To conclude this discussion of my methodology I return to the many iterations of the requirements for a study based on activity theory as outlined above. By drawing once more on the requisites outlined by Tolman (1999), Decortis et al (1997) and Nardi (1996), I will illustrate how my approach fully addresses their methodological considerations. An appreciation of the ‘existing theoretical understanding of the general process’ (Tolman, 1999: 78) is achieved in numerous ways, principally through consideration to the macro level policy development and its relevance to the local development of policy, and also through reference to existing literature describing the relevant communities of practice. A ‘focus on the concrete nature of the immediate problem’ (Tolman, 1999: 78) is achieved through the application of this complex cultural frame to the localised development of the bail supervision scheme, and in particular through a consideration of the boundary processes that constitute the development of the scheme. As such, in preference to an empirical description, the following discussion of the development of the scheme draws on the above theoretical notions, outlining the transformation of the object as it moves between the different relevant problem spaces and is therefore acted upon by different

subjects. Thus this study aims at ‘revealing underlying causal dynamics’ of the scheme’s development (Tolman, 1999: 78).

The ‘methodological considerations implicated by activity theory’ as described by Nardi (1996) can also be seen to have been addressed. Having been employed as evaluator early in the development of the scheme the ‘research time frame’ would appear to have been ‘long enough to understand users’ objects’, as much as is practically possible. In particular by tracing the development of the scheme in both time, at six-monthly intervals, and space, in a range of environments, I have been able to trace the object trajectory of the individuals and the practitioner groups involved in the system. The prolonged timeframe of the study, together with my constant presence within the research setting during that period can also be seen to ensure sufficient ‘attention to broad patterns of activity rather than narrow episodic fragments that fail to reveal the overall direction and import of an activity.’ (Nardi, 1996, as cited by Decortis et al, 1997) Furthermore I believe the range of methodologies outlined above also represents ‘the use of a varied set of data collection techniques... without undue reliance on any one method.’ (Nardi, 1996, as cited by Decortis et al, 1997) In particular I use a variety of methods in order to elicit an understanding of the object of activity, in preference to a reliance on a single method with each subject, and draw on historical material wherever possible, principally in the form of written records and monitoring data, in order to understand the current transformation of the system.

In addition, given the dual basis for my theoretical approach, I need to further assert my commitment to a methodology that satisfies Sanderson’s (2000, 2002) discussions

on the evaluation of complex policy initiatives. Having presented activity theory as a means to understand such a system much of the argument is self-fulfilling. However specific mention should be made to the following assertions. In line with Byrne's (1997, 1998) argument that the whole contains things that are indeducible from any part of it, the whole system has to be investigated. Furthermore given the perceived open nature of such systems, there is a need to understand the environment and thus the context in which the system operates. As asserted in my discussion above, the complex web of systems in which the particular activity operates is explored, with reference to the wider 'practice' of the subjects, and thus the cultural frame in which the individuals and subsequently the system exists.

The final principle of complexity theory worthy of specific note is the nature of change, portrayed variably as a process of punctuated equilibria or co-evolution. In line with Harvey (2001) I have asserted that both such processes can occur in any system, and that they are not therefore mutually exclusive. Whilst the basis of activity theory can be seen to be the tracking of the transformation of the object it is still worth asserting the ability of the methodology adopted to evidence both processes of change. As above the nature of my submergence into the central activity system allowed me to track change as it occurred. Notions of co-evolution can be understood through knowledge of neighbouring systems, and an understanding of the cultural frame of individuals and groups. Thus the impact of changes to these systems on the central system can be traced and understood. In addition key bifurcation points can be focussed upon and subsequent transformations traced and explained. These transitional points will be demonstrated in the following data chapters as crucial



viewpoints from which to analysis the nature of the activity system, and in particular the multivoicedness apparent in the development of a boundary object.

In combination with the theoretical application of my approach to the study of managerialist social policy and its enactment in a local context, this methodological approach therefore provides the framework by which I undertook the study of the Bail Support and Supervision scheme. It is from this basis that the following chapters therefore unfold the narrative of the development of the scheme. The next chapter begins this narrative by constructing the policy landscape in which the local scheme can be understood to be operating. From this contextual account I am then able to describe the object formation stage, before presenting the data collected as described below in each of the settings in which the system operates and develops.

#### **Chapter 4. The youth justice policy landscape: the construction of an idealised object for bail and remand**

The following discussion places the Bail Support and Supervision initiative within the context of broader youth justice policy development, presenting it as typical of an increasingly managerialist system and in doing so justifying my particular study as an example of new public management. To this end the narrative of this chapter moves from a general examination of youth justice policy and practice, through the particular development of bail and remand policy, to the specific introduction of BSS.

I illustrate the policy landscape in which youth justice policy is developing, arguing that a new mode of societalisation and a shifting social order has led to a challenge to government legitimacy that places an ever-growing significance on the ability of the state to control crime. This I argue leads to a resultant attempt by government to alter certain parameters of this policy landscape in order to control popular discourse surrounding crime and youth justice, and the subsequent expectations regarding what the youth justice system should seek to achieve, setting the boundaries of expectation and placing the emphasis on local institutions to deliver. I then illustrate a parallel attempt to control state institutions through a managerialism that seeks to standardise and performance manage professional practice. In particular I highlight attempts to subjugate professional practice through the discourse of risk management and corresponding structured assessment processes.

The introduction of BSS is then placed within the broader youth justice system. An exploration of the specific aims and objectives of the initiative will show a match to those of the youth justice system in general. Through this exploration, in keeping

with the principles outlined by Tolman (1999: 78) and as discussed in the previous chapter, I seek to establish a ‘theoretical understanding of the general process’ through the official statute, guidance and discourse surrounding the policy. This is then utilised to provide a foundation from which to understand the idealised object formation stage within the locality. In order to do so, I establish the contemporary perspectives of the key stakeholder groups involved in the development and implementation of the local BSS scheme, relating this to the administrative, statutory discourse contained within the various government representations of the policy. I therefore illustrate how the official objectives within the policy inform the development of the initial idealised object of those charged with implementing it within the locality under investigation.

I begin this discussion by briefly describing the recent increase in performance management within public services, and the stated intentions of government in encouraging this trend. The remainder of the chapter then serves to illustrate and problematise this discourse in the specific case of the youth justice system.

### **The rise of performance management**

Various documents published by government departments detail the rise of performance management as a tool to develop and improve public services. More recent developments continue a trend that can be traced back to the 1980s, signifying an ever ‘increased emphasis on establishing results-focused management systems in the United Kingdom’s public sector’ (HM Treasury and Sure Start Unit, 2001: 1). The focus of these reforms can be seen to have altered however. Whilst the initial concentration was on ‘promoting greater efficiency in public expenditure’ through

reorganisation and reduced expenditure, more recently this has given way to an emphasis on ‘high-level performance’. ‘Thus, the emphasis has shifted from a focus on inputs and process to one on outputs and, increasingly, outcomes.’ (HM Treasury and Sure Start Unit, 2001: 1)

This most recent phase of development is epitomised by the introduction of Public Service Agreements (PSAs) following the Comprehensive Spending Review of 1998. The Review examined all ‘the resources allocated to each area of spending, and for the first time decided on and published the service improvements and reforms required in return for the resources allocated to departments’ expenditure programmes.’ (HM Treasury, 2002: 1) The distribution of resources is therefore dependent upon commitments to improvements and reforms set out as specific and measurable performance targets and monitored by the Treasury. Subsequent to the introduction of PSAs, the 2000 Spending Review saw ‘a shift from the setting of a large number of outcome and process targets to the setting of a smaller number of mainly outcome targets.’ Such a change is argued to reflect ‘the Government’s ambition to make real changes to people’s experience of public services and the need, as a consequence, for high-level targets to focus on the desired outcomes of policy’ (HM Treasury and Sure Start Unit, 2001: 2).

A focus on defined intended outcomes allows targets to ‘play a central role in the management of public sector performance’ (HM Treasury, 2002: 1). Departmental planning becomes focused on the achievement of ‘a single aim and a number of objectives, which set out the aspirations of the department’ (HM Treasury, 2002: 2). The revised PSAs were supported by a series of Service Delivery Agreements

(SDAs). SDAs ‘outline how the department intends to delivery on its PSA targets.’ As such ‘They provide the link between PSAs and the more detailed business plans of departments and their agencies. Thus, the Government’s high-level PSA targets can be cascaded right down to the operational level.’ (HM Treasury and Sure Start Unit, 2001: 3) This process is also supported by the development of local Public Service Agreements (LPSAs) between central government and individual local authorities, aimed at strengthening ‘the link between national targets and local delivery’. Each LPSA contains ‘a package of around 12 key outcome targets reflecting national PSA targets and local priorities.’ (HM Treasury, 2002: 8) The successful achievement of these targets is tied to financial benefits and increased autonomy in local delivery.

Government discourses of performance management portray a number of benefits of the increasingly target-orientated planning. For the purposes of this brief discussion I categorize these ideas under three headings: accountability, democracy and empowerment; ambition and direction; and, efficiency and improved performance.

#### *Accountability, democracy and empowerment*

In the Foreword to ‘Public Services for the Future’ (HM Treasury, 1998: i-iv), Tony Blair presents the publication of PSAs as ‘an important step to improving democracy and accountability’ within public services. Through outcome-focused performance measures and targets, aspirations are quantified such that those responsible can be held as such. This accountability begins with the Minister responsible for the departmental PSA but is in parallel incorporated, through detailed planning, into the ‘individual performance targets of staff within a central department or a service delivery agency.’ (HM Treasury, 2002: 1, also see HM Treasury and Sure Start Unit,

2001: 7) Through ‘concrete’ and ‘measurable’ targets set to agreed timescales ‘the public’ are not only able to see the ‘commitments’ made by government to improve public services but also to ‘judge’ whether these targets are being met. Publicly available performance information ensures ‘Parliament, members of the public and other stakeholders are able to exert pressure for improvements and can better understand the issues involved.’ (HM Treasury et al, 2001: 4) In doing so the public are able ‘to participate in government and exert pressure for continuous improvement.’ As such performance management is seen as a means to ‘empowering citizens’. In turn this empowerment exerts a pressure that might act as ‘a catalyst for innovation, enterprise and adaptation’ within the public services (HM Treasury et al, 2001: 1).

#### *Ambition and direction*

‘Setting Key Targets for Executive Agencies’ (HM Treasury, Cabinet Office and National Audit Office, 2003: 9) highlights a range of functions for performance targets in providing ‘direction’ for public services. Firstly such targets are seen to ‘send out a clear message about what the organisation is trying to achieve’, both to staff and service users. Through a focus on stated outcomes, ‘efforts and resources’ can be ‘concentrated’ on the delivery of priority objectives. In addition such targets are argued to ‘provide a focus on delivering results. Good targets should drive agencies to perform effectively, and to deliver the key outputs and outcomes that underpin the aims of the organisation.’

#### *Efficiency and improved performance*

The assertion of intended outcomes provides ‘a basis for monitoring performance’ and making ‘judgements about how well your organisation is performing.’ (HM Treasury,

Cabinet Office and National Audit Office, 2003: 9) Through stated targets it is argued that it becomes ‘much easier to measure and improve the public sector’s efficiency and thus raise its productivity – the quality and quantity of output delivered for the financial investment made.’ (HM Treasury, 1998: 1) Through clear targets and measures of performance expected levels of performance can be set. Targets therefore become ‘tools for driving performance improvements’ (HM Treasury, Cabinet Office and National Audit Office, 2003: 33) and a means to ‘identify what policies and processes work and why they work.’ (HM Treasury et al, 2001: 4)

In order for performance management to serve the purposes stated, the targets set and the means to collect relevant information must be considered. This endeavour led to the cross-departmental publication of ‘A framework for performance management’ in which there is consideration to the necessary ‘FABRIC of performance information’ (HM Treasury et al, 2001: 3). Targets are required to be:

**Focused** on the organisation’s aims and objectives;

**Appropriate** to, and useful for, the stakeholders who are likely to use it;

**Balanced**, giving a picture of what the organisation is doing, covering all significant areas of work;

**Robust** in order to withstand organisational changes or individuals leaving;

**Integrated** into the organisation, being part of the business planning and management processes; and

**Cost Effective**, balancing the benefits of the information against the costs.

(HM Treasury et al, 2001: 3, original emphasis)

In turn performance measures are seen to need to be relevant, well-defined and unambiguous, as well as verifiable, attributable and reliable. Measures should also be ‘able to avoid perverse incentives’ and ‘not encourage unwanted or wasteful

behaviour' (HM Treasury et al, 2001: 3-4). The importance of the long term over immediate gains is also stressed. 'Key targets should not drive in-year performance at the cost of greater improvements in the longer-term.' (HM Treasury, Cabinet Office and National Audit Office, 2003: 6) Thus services should not be focused on obtaining targets in the short term that negatively impact upon the development of appropriate provision. Similarly targets should not prescribe 'processes or actions to be taken'; rather they should define desired outcomes 'and leave delivery agents to make decisions about how that is best achieved.' (HM Treasury, Cabinet Office and National Audit Office, 2003: 6)

The following discussion illustrates the impact of this agenda on New Labour youth justice policy. I begin by presenting the agreed formal aim for the youth justice system as outlined in the PSA. However as the narrative unfolds it will become clear that recent changes are also influenced by a range of other factors beyond improved performance.

### **The changing landscape of youth justice policy**

Since Tony Blair's New Labour government came to power in May 1997 the provision of youth justice has changed dramatically. Statute followed swiftly after the election, and the pace of change has continued unabated. Indeed Goldson argues that the policy developments and organisational changes resulting from the Crime and Disorder Act 1998 and the Youth Justice and Criminal Evidence Act 1999, represented the 'most radical overhaul of the youth justice system in fifty years' (2000a: xii). Several major policy initiatives have come into effect, significantly altering structures, processes and disposals, all geared towards the single, formal



principal aim 'to prevent re-offending by children and young people' as encapsulated in the Crime and Disorder Act 1998 (para. 3.7) and consequent PSAs. Subsequently in 1998 a new Crime Reduction Programme was announced. Summarising a report from the Home Office Research, Development and Statistics Directorate (2000), McCarthy et al (2004: 4) describe the 'five broad themes of the programme' to be:

1. Working with families, children and schools to prevent young people becoming the offenders of the future.
2. Tackling crime in communities, particularly high-volume crime such as domestic burglary.
3. Developing products and systems which are more resistant to crime.
4. Implementing more effective sentencing practices.
5. Working with offenders to ensure that they do not re-offend.

This was paralleled by the launch of the Youth Crime Prevention Strategy by the Youth Justice Board in 2002 (YJB, 2002c) with comparable central messages. The strategy consists of two 'tracks': 'Pre-crime Prevention' (labelled as Track One) and 'Post Crime Reduction' (Track Two). As such 'prevention' can be seen to imply a focus on the combination of the onset of offending amongst young people, opportunities to commit crime and re-offending once a young person is in the youth justice system. A number of sub-objectives were set out to achieve these aims. These included the need for the swift administration of justice; for confronting young offenders with the consequences of their crimes; for punishment proportional to seriousness and persistency; and for helping young offenders to tackle the problems associated with their offending.

With such a broad aim attempts at crime prevention can be seen to encompass a wide range of policies, each justified by the infamous mantra ‘tough on crime, tough on the causes of crime.’ Measures to assist single parents back to work, to tackle social exclusion, to provide a universal nursery education, to tackle drug use through education classes in primary schools and to ensure all 18 to 24 year olds are in work, education or training have all been justified as ‘ways of helping to tackle the roots of juvenile crime’ (Home Office, 1997: 10).’ (Muncie, 1999: 164) However the elasticity in the definition of what constitutes prevention leads Muncie to argue that ‘it is difficult to capture the essence of the Act through its most preferred official rationale.’ (Muncie, 1999: 169) Instead Muncie draws on an ‘amalgam’ of other concepts, ideas and ideologies seen to have informed policy development, including:

elements of paternalism, pragmatism, communitarianism, responsabilization and remoralization. And all of this is worked within and through a burgeoning new managerialism whose new depth and legal powers might be best described as ‘coercive corporatism’. (Muncie, 1999: 169)

Similarly McLaughlan, Muncie and Hughes (2001) present New Labour’s criminal justice policies, and those related to youth justice in particular, as guided by the broader strategy of ‘modernization through managerialization’, encompassing ‘an institutionalization and normalization of managerialism... to create the basis for achieving the long-held ideal of a cost-effective, ‘seamless’ criminal justice system.’ (2001: 301) Several defining features of the New Labour approach are seen to lead to the maintenance of crucial elements of Conservative thinking, including a focus on competitiveness in the global enterprise culture and associated controlled public spending, a commitment to customer-focussed public services and the principle of government based on pragmatism rather than ideology. We therefore see the

influence of the thinking of Anthony Giddens, John Gray and Will Hutton in the attempted creation of a modernised state capable of management and regulation within the ‘new global order’ (McLaughlin, Muncie and Hughes, 2001: 306). In order to describe the foundations of this adopted amalgam I turn first to the shifts in society which I argue underscore the government position, and thus frame any attempt to mould the policy landscape.

### **A new mode of societalisation: a challenge to government legitimacy?**

In ‘From inclusive to exclusive society’, Jock Young traces ‘the transition between the Golden age of the post-War period within the First World to the crisis years of the late 1960s onwards.’ (Young, 1998: 64) Labelling the latter as ‘late modernity’, he distinguishes between a society based on ‘assimilation and incorporation’ and one that now readily excludes. This transition is placed within a shift from Fordist to post-Fordist methods of production and consumption; a shift that has ‘challenged our notions of material certainty and uncontested values, replacing them with a world of risk and uncertainty, of individual choice and pluralism, and of a deep seated precariousness both economic and ontological.’ (Young, 1998: 64, cf. Burrows and Loader, 1994; Jessop, 1994) Young borrows Will Hutton’s analysis (Hutton, 1995) of a ‘separation’ in the labour market brought about the rise of structural unemployment, and of a flexible workforce with a necessary proportion of workers in insecure employment, coupled with a sharp decline of traditional industries and the end of established, standardised careers for the majority. Hutton believes that this has resulted in a ‘40:30:30’ society, where forty per cent of the population enjoy secure employment, while thirty per cent experience instability and may suffer temporary but regular unemployment. The remaining thirty per cent are said to be structurally

marginalised: either excluded from the labour market altogether or at best working for poverty wages. The meritocracy that has evolved is thus not open to all.

Tony Fitzpatrick (2001) points to subsequent changes to the ways in which 'crime' is defined, committed and dealt with, and how government policy has developed accordingly. In particular Fitzpatrick argues for an emphasis to be placed on the role of global capitalism. Principally through the analysis of these authors Fitzpatrick portrays a state whose legitimacy is challenged on two fronts. Firstly, due to the unfettered dominance of globalisation, its ability to control the national economy has diminished, therefore placing greater emphasis on its role as an authoritative body. Secondly, its old methods of controlling crime have become untenable. I describe these challenges in turn below.

With the onset of globalisation, the market and capital become increasingly unmanageable by state institutions. Governments seem to have little control over this growth, and little appetite to attempt to reverse this trend, choosing instead to adhere to the principles of market liberalism, despite its erosion of their power. Instead the state has become simply an inward investment site. (Bauman, 1998a, 1998b, discussed by Fitzpatrick, 2001: 219-220) Thus the government can seek only to attract global capital by creating conditions for global competitiveness. This has seemingly required the dismantling of workplace regulations and the manipulation of a flexible workforce. Many of those seeking work must be enticed into unattractive employment. This, Fitzpatrick argues, is achieved through underemployment, whereby there are less jobs available than people seeking work, and a revised 'post-social security welfare state' (Fitzpatrick, 2001), based not on addressing need but on

the notions of duty and obligation to work that compel those who are deemed able to work to seek to do so. It is the resulting residuum that needs to be controlled and maintained at a minimal cost to the state.

The means to do so have necessarily altered however. The narrative of this change is presented by Garland (1985) who traces the evolution of the welfare state from the minimalist form in Victorian Britain to the penal-welfare state created by the mid-twentieth century, to its subsequent ensuing crisis. For decades the legitimacy of the modern state has been dependent on its ability to address the causes of crime. With justice representing ‘the secular arm of the state’, any challenge to the state’s control is seen to be a contestation of its ‘dominant role in making, applying and managing norms.’ (Bailleau, 1998: 95) However, since the introduction of the popular vote, and more pertinently the rise of new social movements in the 1960s, the state’s ability to fulfil this role has faltered (Garland, 1985: 247-8, as cited in Fitzpatrick, 2001: 216) ‘Advanced democracy’, through the extension of citizenship to all, has brought ‘new political and ideological notions’ such that ‘discipline could no longer function through repression and exclusion.’ (Garland, 1985: 247) New forms of legitimacy have therefore been sought through a ‘new criminology of everyday life’, based on supply-side modifications. Where causes can no longer be dealt with the state, instead, shifts its attention towards limiting opportunities, creating disincentives and managing risks – the policing of everyday interactions. Social and criminal policy becomes blurred and the focus shifts to the possibility of crime, rather than the crime per se.

Imagined threats, to a large degree created by the state itself 'in collusion with globalised laissez-faire' (Fitzpatrick, 2001: 220), are in turn dealt with by the state. Those individuals, or the residuum, that the state is no longer able to support as it previously had done are instead criminalised. Identified 'problem groups' are cracked down upon, as the state preserves its own authority through heavy policing and a strict benefits regime. The cosmopolitan elites seek a society without those that reject their defined principles of 'law and order', in an attempt to maintain their current privileged position (Bauman, 1998a: 97, cited in Fitzpatrick, 2001: 219). The shift to a post-Fordist mode of societalisation has brought with it a diversification of behaviour. The end of consumer conformity has seen the rise of a 'pluralism of lifestyles'. However emerging subcultures have the potential to contradict and impede each other. Young (1998: 70-1) gives the example of unemployed and unskilled young men who feel they have been denied the respect of others due to their inability to find stable employment. He describes the rise of an alternative subculture of machismo and violence that encourages the creation of distinctions and divisions from wider society. Those that are excluded create an identity that rejects and excludes others, who in turn then further exclude them, ensuring a 'Pyrrhic process'. Young cites Anthony Giddens' (1991: 70-88) analysis of 'late modern life', characterised by 'heightened choice' and 'a constant questioning of established beliefs and certainties.' This has given rise to an 'ontological insecurity' throughout the population, causing the dominant group to try to impose their own set of values on wider society in an attempt to 'create a secure base.'

That is to reassert one's values as moral virtues, to declare other groups as lacking in value, to draw distinct lines of virtue and vice, to be rigid

rather than flexible in one's judgement, to be punitive and excluding rather than permeable and assimilative. (Young, 1998: 73)

With this New Labour has developed a 'clear moral authoritarian agenda', which allows them to target not only known offenders but also 'entire 'dangerous' underclass groups' (Muncie, 2000:25). Ian Taylor laments the 'extraordinary energy' being devoted to the 'demonisation of Others' by the market, the media and the state, to the extent that the categorisation of these groups as 'criminal' becomes part of common sense description (Taylor, 1998: 25). The unemployed, street beggars and single parents, amongst others, are all made subject to state control. Similarly teenagers are cast as 'folk devils' and made the subject of moral panic. This shift is well documented by left realists such as Young, who is highly critical of what he sees as a normalisation of crime, and the subsequent reduction of emphasis on the search for its structural causes (Young, 1998: 77).

Such a perception is reflected in the popular public view. The British Crime Survey revealed a public fear of crime entirely out of touch with reality, with widespread perceptions of a recent increase in criminal activity. 'Indeed, only 6% of the population realised that there had been a decrease.' (Young, 2001, citing Kershaw et al, 2000) In addition crime is now reported more readily, with insurance provision obliging us to inform the police of any significant theft. This has undoubtedly contributed to an increased fear of crime, growing at a disproportionate rate to crime itself. Perceptions of the problem of youth crime are particularly out of kilter with reality, overstating the proportion of crime that is attributable to young people. The 1998 British Crime Survey revealed that twenty eight per cent of the population believed young people to be responsible for the majority of crimes, while a further

fifty five per cent felt that young people and adults committed crime in equal proportions (Home Office, 2000). A recent survey of attitudes towards crime again found the public to be ‘ill-informed’ about youth offending trends.

For example 75% of those polled believed that the number of young offenders had increased in the previous two years – when numbers coming to police attention were actually falling. (Hough and Roberts, 2004)

Contrary to popular belief, youth offending appears to be in decline. Latest figures suggest the number of 10 to 17 years olds convicted or cautioned to have fallen from 143, 600 to 105,700 between 1992 and 2002, representing a decline of over 25% (Hinsliff et al, 2005).

This assessment of the problem of youth crime is also affected by perceptions as to what constitutes criminal activity. Francis Bailleau describes the ‘contradiction between the insecurity felt by the population faced with certain types of offence-behaviours and the limits of the action that both the police and legal system can take in such cases.’ (Bailleau, 1998: 99) There is a ‘widening gap between behaviours that constitute an offence in law (and are therefore acted upon by the police and legal system) and popular views on youth behaviour.’ (Bailleau, 1998: 101) The concern with disorder continues to grow, culminating in the central position of the so-called ‘respect agenda’ within the current New Labour administration. Building upon Hazel Blears’ pamphlet, ‘Politics of Decency’ (2004), the agenda has gained such prominence that it formed a part of Tony Blair’s acceptance speech on the morning after General Election victory of May 2005, in which he spoke of ‘halting the march’ of ‘disrespect’.



This political emphasis mirrors public perception. Having sampled the views of the people of Macclesfield, Girling, Loader and Sparks found a ‘taken-for-granted assumption that crime was a youth problem.’ Issues of special concern included alcohol-related public violence, drug use, graffiti and vandalism, and petty theft, as well as the ‘general noise, nuisance and disorder caused by groups of unsupervised teenagers “hanging around”.’ (Girling et al, 1998: 310) A large proportion of such activity cannot be seen as ‘crime’, and would certainly not lead to charge or conviction. In fact Macclesfield enjoys a relatively low crime rate. Yet such ‘deviance’ and ‘disorder’ is still used as an exemplar of social change and social breakdown in the area, with the popular assumption that young people ‘hanging around’ are ‘up to no good’. While this may in part be due to media sensationalism (as discussed below), David Donnison (1998) addresses the influence of societal factors. Over recent decades we have become an increasingly private society. We no longer know our neighbours, and readily erect barriers between them and ourselves. Paradoxically Donnison argues that this makes us feel even more exposed. ‘Fear then becomes cumulative: if others fear us, they are more likely to behave in ways which make us fear them.’ (Donnison, 1998: 8)

Young argues that such a stance is unsurprising given the media portrayal of the issue. Issues of youth crime, and more pertinently of the punishment of young offenders, are frequently to be found on the front pages. The prominence of the ‘Respect agenda’ has led to a series of tabloid tales of real-life ‘Vicky Pollards’ – a character in the British TV comedy series ‘Little Britain’ seen to embody a breakdown in the behavior and attitude of children. At the other extreme, the acquittal of all the suspects in the Damilola Taylor murder enquiry has meant the resurfacing of images of lawlessness

amongst children. The mass media has 'a central role in the propagation of dominant values' as to the causes of crime, images of criminality and reactions to the both crime and the offender (Young, website). Young (2001) offers examples of the misrepresentation of official crime figures in the popular media. In particular he is critical of the journalists 'taking absurd figures at face value, forgetting all they know about the nature of statistics.' He also quotes Bill Chambliss (1999) in describing 'the systematic attempt to make the problem of crime as bad as the data will allow.'

Although such figures are disputed, in the period New Labour have been in power crime rates appear to have fallen. For example, between 1995 and 1999 the British Crime Survey reported a 23% fall in the crime rate, comparable across most offence categories (Kershaw et al, 2000, cited by Young, 2001). In particular a 20% decline in violent crime is reported in this period. The notable exception to this reduction was found to be robbery, although this figure was substantially augmented by the widening of this category to include school bullying and a rise in mobile phone theft. However Young argues that the media focus on the 'one blemish' of street robbery, coldly described as having risen without due consideration to what this means, or recognition as to the very small proportion of overall crime that this represents. More recently similar treatment has been given to the rise in violent crime.

However Young also claims the Government to be adopting a similarly negative stance, not only allowing misrepresentation to occur but also actively encouraging it. Contrary to the government's assertions, the political leadership are argued to be encouraging perceptions of crime and associated populism, rather than the other way around. Presented with such statistics as those above, together with the substantial majority that the government has recently enjoyed, one might expect a Labour

administration to have taken the opportunity to implement 'radical innovations'. Given the nature of the 'spinometer at Millbank', Young also surmises that 'at the very least a celebration of Government policy' should be expected, particularly given the apparent success in achieving the central aim of the PSA. In actuality, however, we see a focus on violent crime and social disorder, and a subsequent policy drive towards increased police numbers and prison expansion (Young, 2001). Public fear is therefore taken by the government as reflective of the social reality, and hence as a justification for action. It is in such a scenario that the interests of the government become apparent, choosing to work with this fear rather than seeking to dispel it through 'objective assessments'.

From this perspective the Government's management of the issue is positioned within a market liberal philosophy (Taylor, 1998) that gives rise to a corresponding consumerist response. Just as a company seeks to maintain an interest in the relevant market and a belief in their product in particular, so the government seeks to maintain a fear of crime and an inflated belief in its commonality, together with a trust in their party as that which is most able to deal with and deliver on the public's needs and desires. The Government therefore utilise, reinforce and reproduce the fear of crime in order to fuel a desire for the product of crime control that they seek to deliver.

With crime central to the legitimacy of the government each party seek to acquire and maintain a position as the natural party of law and order. Crime is therefore seen as 'crucial to both the ideological rebirth of the Labour Party as 'New Labour' and its landslide victory in the 1997 General Election', and subsequent attempts to command the centre ground of British politics, having traditionally been seen as a policy weakness of social democratic parties (McLaughlin et al 2001: 301). The now clichéd

soundbite ‘tough on crime, tough on the causes of crime’, first made by the then Shadow Home Secretary, Tony Blair, met with great enthusiasm. Such rhetoric seems to have ‘snatched the issue of law and order from the Tories’ (Pitts, 2000:11), and New Labour appear in no mood to hand it back.

However with rhetoric must come action in order to fuel a perception that the youth justice system, and thus the Government, is able to do something to address the public concern. As noted above, since May 1997 the New Labour government has introduced a wealth of legislation, greatly altering structures, processes and disposals. In the discussion below I seek to represent these changes as further evidence of the Government’s attempts to manipulate the policy landscape. I will argue that this occurs in two ways. In line with Muncie (1999) I argue that we see an amalgamated ideological approach that constructs the problem of crime in a manner that suits the ability of central government to successfully deal with it, drawing on individualised discourse at the expense of concern with societal causes. On this basis I then argue that the Government have structured a system within a managerialist framework that appears able and efficient in dealing with this problem.

### **A new ideology of crime: convenience in amalgamation?**

Ian Brownlee (1998: 322) links the inability of government to achieve the historical ‘welfarist project of providing for the needs of its people ‘from cradle to grave’’, to a ‘convenient’ shift of emphasis towards ‘individual personal responsibility’ within a wide range of policy areas, as ideological traditions are utilised to legitimise politically motivated shifts in policy. Specifically within criminal policy this is seen to include a shift towards ‘neo-classical notions of personal responsibility and rational

choice' at the expense of 'social welfarist ideas of treatment and rehabilitation', and a focus on the responsibility for crime prevention on 'the active citizen' as opposed to the state. To this end, ideologies that seek societal explanations of crime are largely ignored in favour of those that place the emphasis on the individual.

The absence of any acknowledgement of the effect of structures of power, racialized inequalities and gendered social divisions is deafening. The social and material contexts in which offending behaviour arises remain untouched. (Muncie, 1999: 170-1)

Brownlee (1998: 318) argues that Labour have taken 'partial reception' of left realist paradigms, embracing 'major parts of this new approach' and even 'actively facilitated its development' by working with some of its leading proponents. In doing so New Labour 'compromise with policies previously associated with the political right.' Left realism emerges as a reaction to traditional 'critical' criminology as 'apologetic' in 'taking the deviant's perspective', and thus marginalized from mainstream policy formation. Instead the developing discourse focused on 'developing here-and-now, practical policies for controlling crime under the conditions of the present political order.' (Brownlee, 1998: 319) Significantly in the search for understandings of the 'real' causes of crime, left realist explanations began to emphasize 'individual moral blame' to an extent that was missing from traditional left-wing explanations. In particular, New Labour have embraced Amitai Etzioni's communitarian agenda of 'responsibilization' and 'remoralization' of individuals, focusing on a lack of discipline and order in particular families and communities and therefore placing the emphasis on the causes within the domestic sphere under parental responsibility (Etzioni, 1995). An 'image of wilfully negligent parents

colluding with, or even encouraging, misbehaviour' is therefore encouraged (Muncie, 1999: 156).

Such a portrayal of the causes of crime places the emphasis on 'local empowerment, community responsibility, moral obligation and public interest' (Muncie, 1999: 157), each of which is tuned to fit the seeming concerns of the public. In this discourse the role of government changes from one of eradicating crime to one of the management of potential and actual criminals, seen to be threatening every corner of society. This gives rise to a 'prevention' agenda that incorporates an increase in surveillance through technology and changing policing techniques (Lea and Young, 1993), a shift towards early intervention premised on 'zero tolerance' of anti-social behaviour (Goldson, 2000b; Young 2001), and the continued pivotal position of custodial sentencing, even in the face of prevailing research highlighting its ineffectiveness (White Paper 1990, para. 2.7; Prison Reform Trust, 1993; Department of Health, 1997; Moore, 2000).

To enforce the changing discourse as to the role and expectation of government, we can also evidence government attempts to restructure the youth justice system and its place within it. In this reconceptualisation we see an administrative response that constructs the state as managing but not delivering on crime control, with the creation of structures through which the youth justice system might be governed and controlled. Within the market liberal philosophy (Taylor, 1998), the fear of crime is therefore conceptualised as a series of segmented problems to be dealt with by managerial techniques. Thus the 'struggle against crime' is narrowed down to 'the struggle over good practice and/or effective management of the social control system'

(Taylor, 1998: 25). Policies are seen to be developed in isolation, in an attempt to correct one particular statistic, separated from its social and historical context. This then becomes the 'object of energetic action', rather than the more complex and challenging 'dislocation and disadvantage' caused by market society (Taylor 1998: 25). Instead the focus is on short-term and immediate policy debates, with a strong emphasis on 'what works' for the here and now.

To this end the Crime and Disorder Act 1998 laid out the foundations of the new criminal justice settlement providing consistent aims and objectives, the enhanced use of current resources, evidence-based approaches, improved performance management, and the modernisation of structure and approach of criminal justice agencies (McLaughlin et al, 2001). Most significant of these changes has been the formation of the Youth Justice Board (YJB) as a non-departmental public body, sponsored by the Home Office to advise on and oversee policy changes, and to monitor provision of youth justice services (YJB, website). In tandem New Labour imposed a statutory duty on all local authorities to ensure the availability of appropriate youth justice services in their given area. As such, each local authority is required to set up one or more Youth Offending Teams (YOTs) whose duty it is to co-ordinate the provision of the services for those who need them. Membership of the YOT is regulated by the YJB, and required to include officers from probation, social services, the police, health and education, with strategic overview and direction to be provided by a management team consisting of chief officers from all main agencies (Gordon et al, 1999:26-7).

Through these local partnerships the emphasis on local solutions to crime is maintained, devolving power and with it legal responsibility to local authorities whilst providing the means by which government can regulate and control practice. This compulsion is channelled by an array of guidance documentation and incentives within the system to ensure appropriate local intervention (McLaughlin et al, 2001: 308-313). The establishment of the Youth Justice Board, supported by the Audit Commission and a range of inspectorates, provided the national body capable of standardizing and scrutinizing these reforms and requirements.

McLaughlin et al (2001: 307-8) summarise these efforts as attempts at ‘tutoring’ the criminal justice system and the professionals working within it, ‘into accepting responsibility for managing, improving and accounting for their performance’. Agencies are therefore given ‘tasks’ as part of a wider remit ‘to deliver a specific product – ‘justice’ – for their customers, whilst also ensuring that demands for the product are kept within economically managerial levels.’ (McLaughlin and Muncie, 1994: 137) Counter to the assertions of government, the guidance and recommendations emanating from the centre are argued to ‘have overwhelmingly been in support of subjugating professional skills and autonomy to management ideals’ (Muncie, 1999: 150), backed up by an array of mission statements, targets, indicators, and performance measures.

### **Risk management: the subjugation of professional intent and practice?**

Uniting much of the discussion above is the status afforded by Government discourse and policy to the concept of ‘risk’ in the provision of youth justice services. Through the employment of a risk assessment process within the practice of youth justice



practitioners the basis on which decisions regarding interventions are made becomes the 'presence of factors in a child's life that, within large population samples, have a statistical correlation with anti-social or offending behaviours' (Prior and Paris, 2004). Recent government research has therefore sought to find any background or lifestyle factors that may be linked to juvenile offending, and could therefore be perceived to be 'risk factors' used to predict the likelihood of future offending (see Graham and Bowling, 1995a; 1995b; Campbell and Harrington, 2000; Roberts and Singh, 1999; Vulliamy and Webb, 1999; Vennand et al, 1997; Harrington, 2000).

This approach to identifying children who are 'at risk' of negative outcomes, such as potential offenders, forms a central part of much of New Labour policy surrounding children's services, as reflected in the recent Green Paper titled 'Every Child Matters', and the subsequent Children Act 2004 (DfES, 2003, 2004a, 2004b). The approach laid out in the Green Paper is based on an extended notion of risk, incorporating a range of potential negative outcomes that a young person may experience in their life course. This broad definition of risk is based on an equally broad range of risk factors. Thus 'risk', and consequently 'protection', has become 'a critical concept in analyses of 'postmodern' society' and subsequently 'a complex and contentious topic in recent years within criminology as well as other disciplines.' (Prior and Paris, 2004, citing Kemshall, 2003)

Detailed discussion of the concepts of risk and protection can be found elsewhere (Farrington, 1996; McCarthy et al, 2004; Prior and Paris, 2004). Of particular interest are those 'Risk and Protective Factors Associated with Youth Crime and Effective Intervention to Prevent It' identified by the Youth Justice Board (2001b), and guiding

policy and intervention. In line with commentators in relation to criminal justice and other policy matters, the Youth Justice Board (YJB, 2001b) group relevant risk and protective factors impacting on a young person's life into categories of 'Individual', 'Family', 'School' and 'Community' factors. An understanding of such factors can be seen to be a basis for prediction as well as intervention in preventing offending or re-offending. This has obvious implications for the development of interventions as a means of offering 'compensatory experiences' and strengthening protective factors, particularly in the presence of unalterable risk factors.

The application of a risk assessment strategy can be seen to concurrently serve a number of purposes within the managerialist drive described above. Firstly the concept provides for the reinforcement of the dominant representation of crime as primarily caused by factors relating to the individual, family and lifestyle. In doing so it presents the 'problem' in the consumerised, compartmentalised manageable form in which it is sought. In dealing with such factors crime is claimed to be prevented. Such an individualised assessment offers little account of the structural factors that might also be influencing behaviour. In doing so the prominence of specific factors are also impressed upon youth justice practitioners. Such assessment therefore also acts as a means to regulate and standardise professional decision-making through the statutory requirement to complete compulsory assessment forms in deciding on the nature of provision. Prominent amongst these is the Core ASSET form.

The ASSET referral and assessment framework was developed by the Centre for Criminological Research at the University of Oxford on behalf of the YJB.

Developed for use in gauging the appropriate intervention or response for a young

offender, the framework aims to identify risk and protective factors across a number of areas of interest. The Core ASSET form guides the assessor through the following range of areas of interest: 'Living arrangements'; 'Family and personal relationships'; 'Education, training and employment'; 'Neighbourhood'; 'Lifestyle'; 'Substance use'; 'Physical health'; 'Emotional and mental health'; 'Perception of self and others'; 'Thinking and behaviour'; 'Attitudes to offending'; and 'Motivation to change'. These topics then become the basic structural premise for the subsequent intervention aimed at preventing further offending. For each topic the assessor is asked to address a number of questions to highlight potential factors. Subsequently they are asked to 'rate the extent to which the [group of factors] are associated with the likelihood of further offending' on a scale of 0 to 4, ranging from 'Not associated' to 'Very strongly associated' (YJB, 2000). The scores given to each factor are added with no weightings given to particular factors or to the spread of ratings. The likelihood of future offending is then based on this assessment. This standardisation of approach offers further benefit to the managerialist endeavour by providing ready-made monitoring and statistical analysis opportunities, allowing for easy identification of the treatment of particular target groups and quick comparison across performance indicators.

In addition, through such a representation of the factors presented as attributing to offending behaviour intellectual legitimisation of particular provision is made possible. Segmentation in provision, through 'add-on' programmes that focus on particular issues or factors in isolation to any social context, are justified by recourse to an 'additive' representation of the interaction of risk and protective factors that presents

any additional protective factor or reduction in risk factors to be beneficial<sup>3</sup>. More significantly, such a conceptualisation offers justification for ever earlier intervention on the premise that identified factors reveal a likelihood of future offending even if no offence has yet been committed.

Such an argument is however countered by the role of the magistrate within youth court proceedings. Whilst the practice of youth justice professionals may indeed be standardised by such concepts and tools, decision-making within the court room is dependent on magistrates who are afforded relative freedom. As such outcomes cannot be guided readily by assessment processes alone. This interplay forms a crucial element of my unfolding narrative of the local development of BSS.

### **The development of pre-trial legislation**

It is within this policy landscape, framed by a shifting government stance that mirrors a popular punitive appeal, that I now place the introduction of Bail Support and Supervision as defined in the Crime and Disorder Act 1998. I do so by first establishing the aims of the scheme as defined by central government and translated into statutory requirements, before exploring the idealised object formation emerging from the early stages of my research. Before I am able to examine these perspectives however, it is first necessary to place this policy within the legal framework within which it was developed through a brief discussion of the three prominent pieces of

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<sup>3</sup> McCarthy et al (2004) outline three such models: 'additive', 'interaction' and 'pathways'. The additive model sees risk and protection as counterbalanced, on the basis that factors can be scored, added and subtracted. In contrast the interaction model highlights the dynamic relationships between factors and the subsequent varying effects any particular factor might have. The pathways model focuses on the role of risk and protective factors during transitions and points of change, with the influence of particular factors seen as dependent on time and circumstance.

legislation: the Children and Young Person's Act 1969, the Bail Act 1976 and the Crime and Disorder Act 1998.

The Bail Act 1976 established the general right to court bail, subject to a number of exemptions as outlined in Section 4(1). Refusal of bail requires courts to have "substantial" grounds for believing a defendant will fail to comply suggesting that 'the court must have stronger reasons for refusing bail than just "playing safe".' (Moore and Smith, 2001: 18) The presumption in favour of bail applies to all, and therefore includes those who have previously been refused bail initially by the police or in a prior court appearance. Furthermore there is no obligation for a court to refuse bail in any of the circumstances listed. This right remains unaffected by any subsequent legislation.

Under section 3(6), the Bail Act provides the court with the specific power to impose conditions on a young person when the court feels that unconditional bail is inappropriate to ensure that he or she: surrenders to custody; does not commit an offence while on bail; and does not obstruct the course of justice. This allows for a wide ranging array of conditions, commonly including a requirement to observe a curfew, to reside at a given address or "as directed by the Local Authority", to not visit certain places or associate with certain people, or to attend appointments with Youth Offending Team officers. In applying such conditions the court should be directly addressing specific objections to bail put forward by the Crown Prosecution Service. 'They are not intended as a punishment, and should not be seen in this light as there can be no presumption of guilt at the pre-trial stage.' (Moore and Smith, 2001: 19) It is therefore assumed that any restrictions applied to a young person pre-

trial should be the minimal suitable. In addition the court must record its decision, explaining its reasons where bail is refused, or conditions are set or changed. The presumption in favour of bail is therefore further strengthened.

Once a decision has been made to refuse bail, the court is governed by legislation outlined in Section 23 of the Children and Young Persons Act 1969, and subsequently amended by the Children's Act 1989, the Criminal Justice Act 1991 and the Crime and Disorder Act 1998. Such legislation separates those aged 17 from those who are younger. For those aged 17 who are denied bail the only option open to the court is remand into prison custody. For those under 17 a remand is made 'to local authority accommodation' upon which the young person is designated a child 'looked after by a local authority' within the meaning of the Children Act 1989. The Department of Health issued 'The Children Act 1989 Guidance and Regulations' covering court orders (1991, Vol.1) stating:

It is important that a comprehensive range of services and facilities are available locally for remanded juveniles to ensure that they are not remanded to a penal establishment... or placed in a secure unit unless it is absolutely necessary.

The Criminal Justice Act 1991 proposed alterations to the remand process in line with the anti-custodial ethos of contemporary legislation. When fully implemented the Act aimed to 'end completely the remanding of juveniles in custody' and limited the use of secure remand for 15 and 16 year olds (Gibson et al, 1994: 213). Whilst the policy of successive governments has been to end prison remands for this age group, these plans have yet to be fully implemented, and look increasingly unlikely to be. In line with policy regarding custodial sentencing, we therefore see a stated commitment to

reduce the use of custody countered by contradictory action both at policy and courtroom level. Despite the creation of an additional 170 places in local authority secure accommodation, the available space has not been sufficient to meet the growing demand for secure remands. The Crime and Disorder Act thus maintains the option for courts to impose prison remands for 15 and 16 year old boys where no secure place is available, subject to the restrictions of Sections 97 and 98.

### **Bail Support and the shift to supervision**

With the legislative alterations provided by the Crime and Disorder Act 1998, came a fear that the extra places made available in secure accommodation would be taken up zealously by magistrates who may have been reluctant to send a child to prison in the past (Nacro, 1998). This resulted in the need for a credible community-based alternative programme at the remand stage to give courts the option of granting bail with sufficient conditions for those charged with serious offences or with persistent offending habits. This led to the introduction of a statutory requirement to provide bail support and supervision.

Every local authority must secure that, to such extent as is appropriate for their area, there is provision for the support of children and young persons remanded or committed on bail while awaiting trial or sentence. (Crime and Disorder Act 1998 s.38(1) and (4)c)

To this end 128 BSS projects were given grants under a Development Fund that ring-fenced a budget for the development and delivery of provision until July 2002, at which time YOTs were required to fund the service from within core budgets. Project start up dates varied from April 1999, for those who already had some services in place, and April 2000, by which time all areas were required to be operational.

Prior to the onset of a statutory requirement bail support was found to be provided in approximately seventy per cent of local authorities, by a range of agencies and to slightly varying formats (Nacro, 1998). Broadly, bail support was defined as ‘the provision of services designed to facilitate the granting of bail where bail would otherwise be denied.’ (Nacro, 1998) Nacro's Directory of Bail Support talks of ‘community-based activities in programmes designed to help ensure that defendants awaiting trial or sentence successfully complete their periods of unconditional or conditional bail by returning to court on the due date without committing offences or interfering with the course of justice and to assist the bailee to observe any conditions of their bail.’ (Nacro, 1995) The aims of such schemes can be seen to be three-fold:

- the reduction of the use of secure remand;
- ensuring punctual appearance in court; and
- assisting in the successful adherence to bail conditions.

It is these aims that therefore form the basis of the performance management of the scheme, setting clear targets against which monitoring was to occur. In line with the general shift in youth justice policy portrayed earlier in the chapter, it is this final objective that has taken on more prominence ‘as the result of growing concern about high levels of offending on bail by the juvenile age range.’ (Nacro, 1998) The Final Report of the Youth Justice Task Force (1998), which informed directly the provision outlined in the Crime and Disorder Act 1998, therefore argued that ‘the main aim of this work should be to reduce the risk of offending while on bail’, with the other two



objectives seen to be 'subsidiary'. This is reflected in the definition of BSS as provided in the Guide to National Standards for Bail Support and Supervision as:

Community based activities in programmes designed to help ensure that defendants awaiting trial or sentence successfully complete their period of bail by returning to court on the due date, without committing offences or interfering with the course of justice, and to assist the bailee to observe any conditions of their bail. (Nacro Cymru, 2001: 5)

Thus of the two long-standing aims of remand policy, keeping remand figures down and protecting the public from risk of serious harm caused by offending on bail, it is the latter that is now seen to be more prominent.

This emphasis is reflected in the change of title on the implementation of the programmes to Bail Support and Supervision schemes following dialogue between the Youth Justice Board and Youth Offending Teams. A letter from Lord Warner to the chairs of YOT steering groups (dated 13 November, 2000) re-defined bail support as bail supervision and support 'in order to emphasise to courts in particular the supervisory nature of programmes' (as quoted by Nacro Cymru, 2001: 5). With such a change the target group for such intervention might also be seen to be altered.

Traditionally bail support was seen to be aimed at those juveniles at risk of custodial or secure remand. The increasing prominence given to preventing offending might however shift attention to those young people not at risk of (or indeed eligible for) secure remand but seen as liable to offend on bail. This opens the door to potential 'up-tariffing' whereby, rather than the scheme being used to encourage the granting of conditional bail to those at risk of a secure remand, it is those who would otherwise be granted unconditional or less severe conditions. Although the assumption towards the

minimal restrictions necessary to allow for bail remains, what might be considered necessary is open to new interpretation. This too can be seen to be in line with general youth justice policy espousing earlier and more substantial intervention.

Furthermore the three principal aims of BSS are seemingly contradictory in that working towards reducing the number of custodial remands is in fact likely to increase the numbers of young people offending on bail and/or failing to appear in court. Whilst these aims are geared to improve performance in each of the key aims of remand interventions there is therefore the possibility of the sort of 'perverse incentives' that the developed FABRIC of performance management seeks to avoid (HM Treasury et al, 2001: 3). The primary emphasis on offending on bail suggests that attempts to reduce the use of custody should adopt a low risk strategy in providing support. Even a superficial consideration suggests that should priority be given to the reduction of numbers being remanded into custody there is likely to be an associated increase in numbers offending on bail and of young people breached for failure to comply, and a greater risk of non-attendance in court, as those more at risk of these negative outcomes are placed on bail. Thus it is likely that activity focused on the former will have a negative effect on the latter. As such associated performance indicators and targets are potentially contradictory.

Policy in relation to bail and remand also mirrors that of the broader youth justice system in the use of risk management assessment tools, and the associated subjugation of professional practice. BSS practitioners are provided with a Bail ASSET form (attached as Appendix 1), developed as a simplified version of the Core ASSET. The Bail ASSET is used in relation to bail and remand decisions, in particular where a

young person is identified as being at risk of having bail denied, and to assist the assessment of vulnerability in relation to 15 and 16 year olds. In keeping with the Core ASSET form, the assessment process incorporates a number of factors: general information; living arrangements; family and personal relationships; education, employment and training; lifestyle, health and substance use; attitudes to supervision and support; personal and emotional distress. This identification of needs, attitudes and motivation is to be measured alongside likely objections to bail, and the risk the young person is felt to hold to the public and to themselves.

The Bail ASSET thus provides a framework for undertaking consistent assessments based around these factors, and for assisting practitioners in identifying if the provision of bail information or a programme of intervention is necessary to manage risks, address needs and meet objections to bail. Unlike the Core ASSET completion is not mandatory. Its use is strongly advised within the Guide to National Standards for BSS (Nacro Cymru, 2001) however, with ‘those who are likely to re-offend on bail or fail to attend’ to be assessed always. The suggestion that it is possible to identify ‘those who are likely to re-offend on bail or fail to attend’ prior to such an assessment appears to contradict the purpose of the tool however. The role and usefulness of the Bail ASSET form will be seen to be disputed in the case study site, both by the BSS project workers who adopt changing positions and the magistrates who come to question its usage. Once again therefore the relative independence of magistrates within the youth court will be seen to counter attempts by government to control decision-making with regard to bail.

### **From statute to idealised object formation**

The final sections of this chapter describe the interaction within the local area through which the initial object or concept formation can be seen to have occurred, developed as it is from the scientific, pre-articulated administrative policy discourse of central government statutory requirements, and challenged by the situated everyday experience and perspective of the three main protagonists: senior YOT management; the Bail Coordinator; and members of the Bench. Whilst the three stated aims for BSS are all apparent in the development of the scheme within the local area under investigation, the emphasis placed upon them can be seen to differ from the prioritisation presented by central government. Furthermore, varying views amongst the key stakeholders involved in the early development of the scheme are apparent.

The concerns of the YOT management, in writing the application for funding are predictably presented formally so as to mirror exactly those of the YJB and the Home Office. The first local evaluation report (April 2000), written, in my absence, by the YOT manager responsible for the early development of the scheme, defines the ‘overall aim of the scheme’ to be the attempt ‘to reduce offending on bail’, with ‘the secondary aim of ensuring that young people will not be remanded to the secure/custodial estate unless they are assessed as likely offenders on bail’. Within this representation increased attendance by young people and their parents or significant adults is restricted to ‘adjourned court hearings’, and even then only appears in a list of several ‘objectives’.

This report was written not only before my appointment as local evaluator but also that of the Bail Coordinator, who arrived in post two weeks after the scheme was

supposed to 'go live'. An early interview suggested she had a different prioritisation, with her focus primarily on:

providing a service for children and young people who are unlikely to be granted bail by the court and are therefore at risk of remand to prison custody or secure accommodation or local authority accommodation... We believe that many children in trouble face a wide range of difficulties and problems. By addressing these problems in the community the damaging, and costly, effects of custodial remands can be avoided while the risk of further offending is also tackled. (Interview with Bail Coordinator, September 2000)

I reflected this interpretation of the purpose of the scheme to the Operational Manager who had written the initial report. Rather than the anticipated correction, or insertion of a proviso of risk assessment regarding likely offending on bail, there was in fact a general agreement. When questioned as to the intended day-to-day practice of the team the secondary aim of reducing the use of custodial remand appears to take precedence, as the YOT representative in court is said to 'attempt to secure bail whenever possible.' (Interview with Operational Manager with responsibility for pre-trial provision, September 2000)

This dual focus on offending whilst on bail and reducing custodial remands is explained by an apparent tension in aspiration with regard to the scheme in general and to each case specifically. Whilst premised in a need to ensure individual young people do not offend whilst on bail, intent to reduce offending in fact represents an aggregated aim, defined in terms of the "numbers and percentages" that will be reported in monitoring returns to the YJB and Nacro Cymru' (field note, October 2000; comment from Bail Coordinator). The application of this aggregated aim to a particular case is clearly problematic. The quotes above show that when faced with a

case within the courtroom, the object is not presented as reducing offending but on achieving the best outcome for that young person. This representation by both the Operational Manager and the Bail Coordinator also suggested a tension with regard to the effectiveness and, indeed, purpose of risk assessment practices in identifying likely offenders that I explore in the unfolding analysis of activity.

This tension between the aggregate and the individual also emerges in representations of the aim to reduce custodial remands. In addition to this seeming focus on reducing the use of custody, comes a more general aspiration of minimising the restrictions placed on the liberty of young people.

The aim of the service is to provide interventions to support children and young people from the ages 10 – 17 years in order to achieve the least intensive restrictions of their liberty before sentence consistent with public safety. (Promotional leaflet for court users, 2000)

In this representation it is not only those at risk of custody who are seen to need protection from unnecessary (though not explicitly labelled as damaging) restrictions to their liberty, but all those facing a remand hearing. The focus of the team is immediately presented as being the individual young person with whom they are working, as opposed to a target group defined by a potential negative outcome. This further challenges the ideal representation of the object of the scheme, placing aspirations to reduce custodial remands in the context of situated practice whereby such cases represent only a proportion of those dealt with. As such activity is instead presented as of relevance to all cases through the motivation of achieving an ‘appropriate’ outcome; a motivation that clearly includes the avoidance of the use of custody.

### **The influence of the broader youth justice context**

The conceptualisation of the ideal object of the central activity system is immediately influenced by the broader context in which it operates. As well as the obvious influence of the official requirements of the specific statute, the initial conceptualisation of the scheme can also be seen to be influenced by the perspectives of the local magistrates, the broader context of pre-trial provision in the city and the even broader established legal framework of youth and social work.

The first local evaluation report (April 2000) accounts the perspectives of those magistrates consulted in developing the scheme. Prior to the establishment of the local BSS scheme in April 2000 no such provision existed in the city, with the role of the youth workers in pre-trial court appearances restricted to bail information. There had been, however, what was termed within the first evaluation report a ‘successful and well used bail support scheme’ (Interview with Senior YOT Manager, December 2000) between 1987 and 1992. During this period an average of thirty young people a year were made subject to the scheme, for episodes of between two weeks and six months. The project sought to provide support in meeting the conditions of bail, and in particular to ensure the young person attended all court hearings. Indeed, in the first local evaluation report (April 2000), those with a working experience of the prior bail support initiative are reported to have portrayed it as having been successful in working with those at risk of non-appearance.

Provisions within the Criminal Justice Act 1991 led to the centralisation of Youth Justice Services and therefore the cessation of such neighbourhood based

relationships. In addition a subsequent 'shortfall in resourcing' (first local evaluation report, April 2000) brought about by the new requirements enforced by the Act led to the withdrawal of bail support services throughout the city. Thus, whilst there was no functioning scheme from which to develop the BSS, several long-standing members of the bench, justices' clerks and Youth Offending Team officers had some experience and understanding of what the previous scheme had offered as a resource to the Youth Court. In developing the application to the YJB, the views of those with experience of the previous scheme were actively sought, principally through liaison with the Youth Court User Group. As such this perspective should be seen to have influenced the direction of the scheme from the earliest stages.

The priority amongst these magistrates is said to have been 'the numbers of young people who arrive at court late or not at all; without a parent/significant adult; not having kept appointments with their solicitor or Youth Offending Team Officer' (first local evaluation report, April 2000). This concern was supported by an exploration of the most recent youth court monitoring data which showed that 158 young people had 288 warrants issued for non-appearance in the previous calendar year (first local evaluation report, April 2000). Amongst the magistrates consulted in the bid writing stage, we see a primary concern for the effective functioning of the youth court, seen to currently be hampered by delayed or non-appearance. In this perspective there is no reported apprehension about offending on bail or the options available to the bench in making bail and remand decisions. This apparent lack of concern is explored within the interviews with youth court magistrates later in the process. Furthermore its impact on the development of the system is also explored.



In contrast, within the perspectives of the YOT staff, concerns regarding offending on bail or non-appearance at court are seen as relevant only when magistrates perceive the young person as at risk of such behaviour. Thus:

the programme is designed to address any concerns the court has that the young person may offend on bail or not return to court for trial, but at the same time enables the young person to stay in the community. (Interview with Bail Coordinator, December 2000)

Offending or non-appearance are therefore portrayed as reasons for a potential remand into custody that need to be addressed with a bail support package, as opposed to reasons for intervention in their own right. In this early discussion of the object of activity we therefore already see some evidence of the acceptance of the need to appease magistrate concerns in order to achieve their primary aim. This will be seen to take on greater significance as the scheme develops.

In addition to a necessary reaction to magistrate perspectives, other broader interests and concerns of the YOT management are apparent at this stage. BSS represents just one element of pre-trial services, reflected in the dedication of one operational manager to this area of provision, which in turn brings the broader issues to play in the development of BSS. The Crime and Disorder Act 1998 places the provision of BSS within this broader context of pre-trial services. Each YOT was required to develop a formal 'remand management strategy', to be in place by July 2002. The term 'remand management' is used to bring together all elements of the youth justice process between the point of arrest and the point of sentence or discharge, thus including the provision of appropriate adults, PACE transfers, bail information, remands to local authority accommodation, and the review of all remands to secure

accommodation and custodial remands. This requirement, together with the known withdrawal of ring-fenced funding for BSS in April 2002, places the development of BSS as both an immediate concern, governed by statute to be implemented within the timescale required, and a longer-term concern, in developing a scheme that meets the needs of, and fits within, such a strategy.

The statutory requirement for a remand management strategy therefore provides a further long-term, ideal object for the YOT management to which immediate activity must eventually lead. At this stage this aim was not seen to be contradictory to the development of the BSS scheme. At the initial development stages the influence of broader concerns relating to bail and remand policy therefore appears inconsequential. What is immediately evident however is the willingness of the YOT management to align their perspectives with that of central government in instigating the required legislation. As the discussion evolves we will see how the YOT management are willing to alter this principal perspective in order to fluctuate between maintaining funding and improving relations with a range of communities of interest, and principally senior magistrates. I will illustrate emerging tensions in the dual focus on the scheme within the broader strategy. In particular this will be seen to occur as guidance and targets in relation to remand management are introduced by the Government and the YJB. Later chapters will introduce changes to the nature of the intended targets for the scheme and the tools to support work towards them, and the impact on its operation. The changing terms and conditions by which the YOT must operate will be seen to bring tensions and contradictions in the operation of BSS, and the idealised conception of the object.

The perspective of the BSS staff can also be seen to draw upon broader youth justice issues. As well as the necessary application of the statutory definitions and requirements of the implementation of BSS, early literature produced by the team also draws upon the established legal framework of youth and social work in defining their relationship to the young people assessed by the team. The Children Act 1989 is quoted in the promotional literature of the scheme aimed at other youth court users. Despite its seeming irrelevance to the immediate concerns of the team once a young person is facing a remand hearing, the opportunity is taken to reiterate

the requirements of local authorities to take reasonable steps to reduce the need to bring criminal proceedings against children, to encourage children not to commit offences and to avoid the need for children to be placed in secure accommodation (Children Act 1989 Schedule 2 Part 1 para 7, as quoted in a promotional leaflet for court users, 2000).

Of more obvious pertinence is the UN Convention on the Rights of the Child, from which Article 37(G) is cited by the scheme stating that the ‘detention or imprisonment of a child shall be in conformity with the law and used only as a measure of last resort and for the shortest appropriate period’. (Promotional leaflet for court users, 2000)

This choice of presentation appears to position the BSS scheme, or in the least the scheme’s coordinator, within a discourse based on established and primary child welfare law as opposed to the administrative, statutory requirements laid out by government guidance. In doing so it challenges the processes prescribed by the legislation. This apparent tension will also be explored in the analysis presented in the following chapters.

### **From idealised abstraction to material interaction**

This chapter placed the Bail Support and Supervision initiative within the context of broader youth justice policy development, presenting it as typical of an increasingly managerialist system and in keeping with the aims and objectives of the youth justice system in general. In describing the policy landscape in which youth justice policy is developing, I presented an attempt by government to control popular discourse surrounding crime and youth justice, and a parallel attempt to subjugate professional practice through the discourse of risk management and corresponding structured assessment processes.

The final sections of the chapter then explored how this policy was initially understood and conceptualised in the local area under investigation. I established the contemporary perspectives of the key stakeholder groups involved in the development and implementation of the local BSS scheme, relating this to the administrative, statutory discourse contained within the various government representations of the policy. I therefore illustrated how the official objectives within the policy inform the development of the initial idealised object of those charged with implementing it within the locality under investigation.

In the perspectives of the three key stakeholder groups outlined above we are presented with varying stances at the scheme's inception. Amongst the YOT management we see a reflection of the discourse and interests of central government as they attempt to fulfil their statutory requirements and to appease those judging the suitability of their application for the money to fund the scheme. The initial position of the Bail Coordinator, shared to a large extent by YOT management, is easily

characterised as the welfarist stance, seeking to prevent a remand in custody wherever possible and to achieve the most appropriate outcome in all cases. Amongst the magistrates consulted at the outset the primary concern for the effective functioning of the court leads to a focus on reducing delays through ensuring appearance at all court hearings. Whilst sharing a comprehension of the range of aims and objectives of the scheme the principal outcome of activity desired by each stakeholder group is therefore conceptualised differently. Although each of these perceptions broadly fall within the given objectives of the Home Office and the YJB, the variation in stated priorities is therefore obvious. It is immediately clear that a principal focus on any one of these aims might greatly alter activity in all relevant settings, as tools and strategies developed might circumvent other aims in order to prioritise this activity. This can therefore be seen as a primary contradiction in the early development of the scheme, brought about by different interpretations of the object amongst the subjects and community within the central activity system.

In presenting these varied perspectives I have evidenced a managerialist policy initiative at tension with the norms of professional practice. A perceived responsibility to the young person in obtaining the outcome considered most appropriate has the potential to conflict with an aspiration to achieve aggregated outcomes. Whilst there is not necessarily a contradiction in the projected outcome or motivation for activity, the goals in relation to the scheme and to individual cases are not easily resolved in the abstract representation of proposed activity. The object of activity is therefore not to be found in the statements of aspiration regarding reducing offending on bail or even the numbers remanded in custody. Rather this reflects an ideal object, replaced in activity by attempts to obtain the best possible outcome for

each particular case towards achieving this aggregated goal. It is in the exploration of the material, in the influence of aggregated aims on decisions with regard to individual cases, that the impact of the managerialist policy will be explored. The discussion of the following chapters will demonstrate how this tension is surfaced in the material activity of members of the team as the scheme develops in the various settings.

The development of BSS within the case study site must therefore be considered to be taking place within a contested problem space. Whilst the positions of these stakeholders are disparate the exploration of action and object-motivated activity will examine how they interact within the development of the scheme, and are subsequently altered, with contradictions attempted to be resolved over time. The basis of the interaction between the three key stakeholder groups was illustrated in Figure 3.2. In each interaction the third party is relatively powerless. Thus the perspective of the party on the node opposite the line of interaction is only of secondary concern within this setting. Through consideration to these interactions the range of boundary objects and processes and subsequent changes to the perspectives of the three key groups will be unearthed. As the central activity system, the BSS is traced through the development of the scheme as the conflicting perspectives of each group clash: firstly in its origins within the YOT, where the expansive ideas of the Bail Coordinator face pressures of resources and management concerns that provide a strict context in which development occurs; secondly within the formal liaison processes, occurring at senior management level between the YOT and its partners, for example through the Youth Court User Group and Reference Group; and lastly within the day-to-day working relations within the youth court, in the interactions that

take place in every bail and remand decision made. Within each of these interactions we will see the presence of government discourse and guidance through the setting of rules of engagement through the provision of assessment tools and criteria, the performance management of the scheme, and associated threats regarding the withdrawal of finance should the scheme fail to meet its requirements.

## **Chapter 5. Implementation within the YOT: the development of ‘new’ activity amongst established activity systems**

The following chapter explores the first of the key interactions between the stakeholder groups in the local area under investigation, through the creation and establishment of the scheme within the local YOT. As such it addresses the impact on the imposed managerialist agenda of the particular context in which the local scheme is developed, as the team attempt to implement the rules and regulations enforced by central government. Tensions and contradictions inherent within the local context will be seen to have influenced the development of the scheme in two different ways: as transitory objects that need to be worked on in order for the scheme to develop towards its central object; or as barriers to the development of the scheme in the expected manner, thus forcing a reconceptualisation of the central object. Through a discussion of activity, I will illustrate how context impacts upon the design and delivery of the intervention, and therefore argue that, rather than appearing in a material form that mirrors the depiction presented by policymakers, the scheme is in fact constructed and developed within, and from, existing structures and processes, and therefore artefacts and rules.

The discussion below will suggest several specific ways in which the particular context of the BSS scheme in the local area in which I undertook my research has impacted upon the development of the scheme. Immediate context will be seen to have influenced the system: in the selection of subjects in order to develop a BSS team; in the construction of a division of labour such that the multiple concerns at this time could be met; in the emergence of contradictions in the initial make-up of the activity system; and in the subsequent redevelopment of the system, as the resolution



of the emergent tensions and contradictions is attempted. As such, we see the constant interaction of the BSS system and the broader YOT in which it is embedded, coupled with the impact of the external environment at various stages and in relation to various aspects of activity. We see the activity of external service providers impacting on planned provision for the YOT and BSS in particular. We also observe the impact of the YJB on the activity of the BSS team, through changing official priorities, the appearance of new and more detailed guidance, and the frequent introductions of new schemes and initiatives. This will be seen to occur both directly, in relation to working practices, and indirectly, by altering the priorities of the senior staff. Through such processes of interaction we see internal change in reaction to external influence. That is, interaction with the external environment leads to internal change so that the system might more effectively interact with its environment, and therefore further develop internally. As such, we see the effects of a co-evolution of environment and system.

The first nine months of the operation of the scheme can be loosely classed as the establishment and development period. At this time the central or primary object of the scheme is superseded by the need to create the conditions in which it is able to function ‘appropriately’, ‘professionally’ and ‘consistently’, represented by attempts to establish practice protocols, processes and agreements, and develop links and working relations with the necessary external agencies and individuals. The definition of what constitutes such appropriate working can be seen to be silently disputed within the course of the activity, played out through a division of labour in part dictated by the context in which this development is taking place and in part orchestrated by the YOT management. The following discussion illustrates how this

activity is itself diverted by the necessary actions and operations undertaken by the Bail Coordinator on a day to day basis, as well as the preoccupations and prioritisations of the YOT management.

This chapter therefore discusses the range of implementation issues facing the BSS in establishing and developing the scheme within the context of a newly formed Youth Offending Team, presented as creating tensions and contradictions within the central activity system. It further discusses the attempted resolution of these tensions during a second phase of activity, represented by a significant shift in the division of labour within the scheme associated with a change in the environment of the YOT in which the scheme is operating, with the effect on senior YOT management causing a subsequent change within the BSS system. In exploring these tensions and contradictions, and their resolution, I conclude by discussing the apparent object evident in the early development stages. In doing so I observe how the various idealised object formations discussed in the previous chapter, and inherent within the division of labour, are played out within the development of the activity system and its subsequent (and still disputed) definition of, and ability to work towards, the central object. In particular I argue that activity appears to challenge the idealised representation of the object of reducing offending on bail in an attempt to meet administrative statutory requirements through the establishment of the necessary processes and structures, as guided by senior YOT staff. As such the central aim of the managerialist policy is challenged even in the initial stages of the development of the scheme in the local area.

### **BSS as an embedded system**

Unlike in other local authorities where the service was provided by an external voluntary organisation, within the area in which I undertook my study the BSS project was managed by the YOT and housed within the main YOT building. We see both a structural and physical presence within the multifarious YOT organization, with the team sitting within a complex, and frequently changing, hierarchy of sub-teams and management structures, as well as sharing offices with a variety of different professions carrying out a broad range of roles within the broader team. As such the YOT needs to be understood as a web of activity, occupied by multiple activity systems. The notion of multi-layered nested systems, intersecting and interacting, allows us to consider the connectivity that implies that change in one system can lead to changes throughout, whilst also suggesting that change can and will occur interdependently within the individual systems. BSS must therefore be considered as an open system embedded within the array of systems constituting the YOT; a discrete system yet rooted within another system, such that the system under investigation cannot be separated from the broader context of the YOT. The multitude of systems housed under the broad roof of the YOT, and the associated wealth of activity, can be seen to constitute the environment in which the BSS has developed. In understanding the development of BSS we must therefore be sensitive to the context of the developing YOT and the implicit and explicit impact this environment has on the central activity system. In particular, we must place the perspective of the YOT management of the scheme in relation to their multitude of other concerns over which they have responsibility, such that the perceived object in the development of the scheme has to be understood as ancillary to the overall object of the development of the YOT.

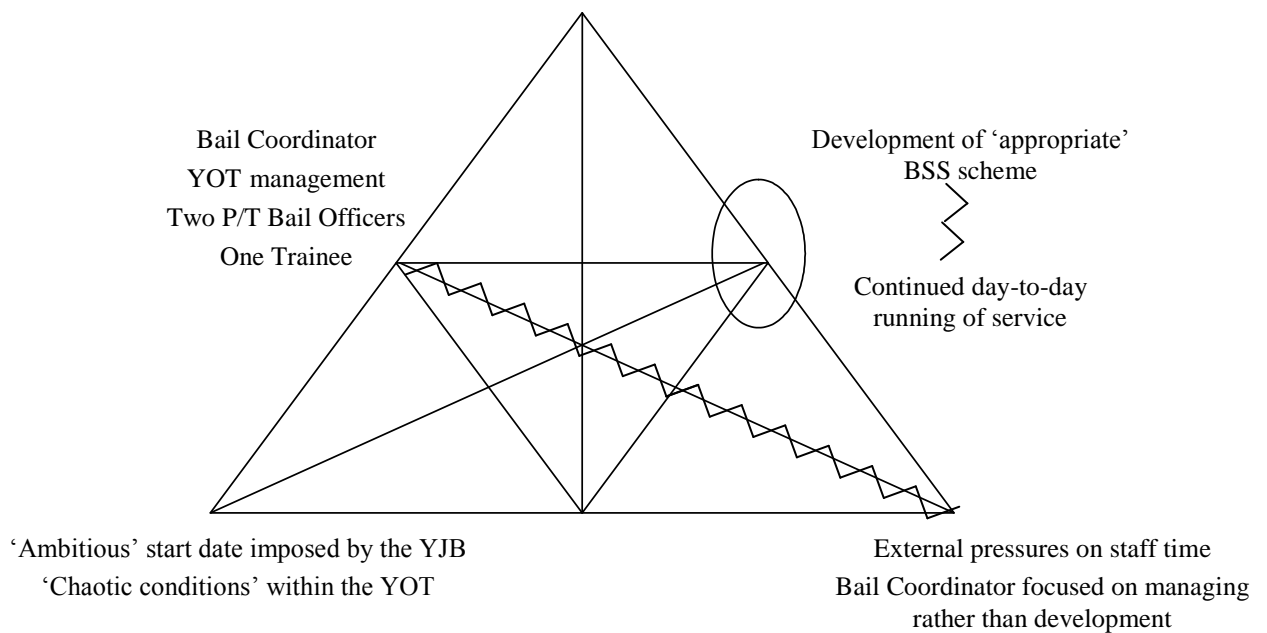
It is not within the scope of this study to determine the object of broader YOT management activity, and even less so to trace its shift over time. The small number of interviews carried out with members of the senior YOT management, and even the significant amount of time spent based at the YOT offices, does not allow me to conceptualise the range of objects being worked upon within the broader team at any one time, nor to track the changing priorities of key members. For the purposes of this study, however, it is enough to be aware of the competing pressures on YOT resources at this time, brought about by the multitude of initiatives introduced in a short space of time and very soon after the inception of the YOT<sup>4</sup>. Given such a wealth of pressure and change taking place, it is conceivable that the development of BSS might be affected by the parallel establishment and early development of the YOT. The scheme is being created and developed in challenging circumstances, within a changing and difficult context. The national evaluators of BSS revealed a concern that BSS might not be sufficiently prioritised within the pressures of forming and developing Youth Offending Teams, particularly where the scheme is thought to be progressing well (BSPDU, 2001), and, furthermore, that this prioritisation might be altered by the changing nature of the YOT to the extent that its intentions may be subverted to the broader needs of the wider context. Indeed, the impact of the conflicting pressures inherent in the complex environment of the YOT is evident from the scheme's inception, and will be highlighted in the unfolding narrative.

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<sup>4</sup> The competing and complex demands on the YOT management at this time are well illustrated by the study of the national evaluation of the pilot youth offending teams (Nacro, 2001).

### **Finding the ‘subjects’ of the system: the creation of the BSS team**

Figure 5.1 summarises the activity of the system in the early development stages of the first nine months<sup>5</sup>. The discussion below will highlight the various tensions and contradictions inherent in this endeavour, both within and between the elements of the system.



**Figure 5.1. Primary and secondary contradictions in the early development of BSS**

The timeline imposed by the Youth Justice Board forced the scheme to ‘go live’ on April 1<sup>st</sup> 2000. Whilst the application process ensured that this implementation date was known well in advance, even Nacro Cymru were unguarded in calling this timescale ‘ambitious’ (BSPDU, 2000a). As anticipated, the time taken to undertake the recruitment of the Bail Coordinator, and the subsequent delay in appointment due

<sup>5</sup> The elements of the system are written on the nodes of the triangle as per the standardised representation of an activity system, as presented in Figure 2.3. In this, and all other representations of activity systems within this thesis, contradictions are represented by diagonal crossed lines. Thus the line between subject and division of labour represents a secondary contradiction. This is in keeping with common practice. I have extended this representation to primary contradictions also. The line between the two objects above therefore illustrates an apparent tension between them.

to her need to give three months notice, actually meant the post was not filled until two weeks after the date at which the option of Bail Support and Supervision needed to be available to the Youth Court. With the known imminent arrival of the Coordinator, and the desire to allow the new appointment to develop practices and processes that suited her own design for the scheme, only a skeleton service was set up prior to April. This was able to take on a small number of young people if required, but did not actively seek to encourage those at particular risk of a remand into custody or offending on bail (those described as 'difficult cases' by the YOT manager with responsibility for court work) for fear of not being able to 'deal with them effectively' prior to systems being in place (quote taken from field note during observation at YOT, September 2000). Whilst this was intended to subsequently allowed the Coordinator to mould a scheme as she saw fit, it ensured that on appointment she faced the dual pressure of developing a scheme essentially from scratch whilst also providing a presence at all youth court sittings and supervising those young people made subject to the scheme. That is, rather than being allowed a 'run in' period, due to a combination of the particular circumstances of both herself and the local YOT, and the rigidity of the rules of delivery imposed by the YJB, development had to occur during delivery. Thus, we see a primary contradiction within the object of activity during this early period, such that the Coordinator wants to be working on the development of processes and ways of working but is forced to focus on the daily delivery of the service.

This primary contradiction is further exacerbated by a secondary contradiction between the subjects within the system and the division of labour required in order to balance competing attentions of development and delivery. This is evident in three

modes: the inability of to develop a BSS team in the form felt to be most appropriate; the conflicting pressures on the staff working within the team to fulfil additional roles within the YOT; and the (partially linked) incapacity of the Coordinator to act in the means considered necessary to ensure the continued development of the scheme.

Tensions and contradictions are first apparent in the development of a team to deliver the BSS scheme. The context of relevant service provision in the city at the time the scheme was launched prohibited the development of a team of service providers to deliver BSS provision. Problems emerged in both selecting or identifying the subjects ('who will work on the object?', in activity theory terminology) and deciding the subsequent division of labour (or 'who will do what amongst those subjects?'). Initial plans to employ 'up to 20 Bail Supervision Workers... drawn from a variety of community/voluntary organisation settings' (first local evaluation report, April 2000) were quickly shelved given immediate and obvious problems in recruiting to such posts. It had been intended that each of these workers would have remained primarily within their host organisation, working with those young people referred to their particular project as a part of a bail support package. This would have provided a mass of support workers to both deliver the substantial element of the support package and in doing so act as lead worker for a particular child, leaving the Bail Coordinator to focus almost exclusively on the court-based representation and assessment processes. In making informal enquiries as to the possibility of establishing these roles it became apparent however that a lack of capacity in partner agencies made this kind of commitment to the scheme impossible. For some agencies this was due to their size, often being limited to one or two key workers whose time was already split between a number of roles within the organisation. For others the sort of support

suggested as being necessary in committing to the scheme was not within the scope of their organisation or service, being better suited to group work or anonymity in support. In addition the scheme is seen to have been developed at what was described by one senior manager as 'a time of intense competition' for such resources, both from within the youth justice (indeed within the YOT itself, as well as with those of neighbouring areas) and from other youth support initiatives within the city (interview with Operational Manager with responsibility for pre-trial services, December 2000).

As the context of services within the city was not conducive to the development of such a team, the YOT management were forced to rely on staff already at their disposal. The enacted alternative plan therefore saw the secondment of two qualified social workers already employed within the YOT on a part time basis (one at 50 per cent full time equivalent, and the other at 40 per cent full time equivalent), in addition to an external full-time appointment of a youth worker who had sent an open application to the service seeking a year's experience prior to entry to a training course within the Probation Service. Due to the nature of their posts the part-time BSS staff undertook a range of other tasks not directly relevant to role within the bail team such as court work, Pre-Sentence Report writing, supervision of various community orders and Appropriate Adult representations. Furthermore, it was not the policy of the YOT management to prescribe to individual workers exactly which hours to spend in which role. Clearly workloads varied across different areas from week to week, and the officers needed to be flexible in order to react to these changing demands.



Though forced upon the YOT management by the context at the time of the scheme's necessary swift development, this alternative model for the BSS team was seen to have advantages as well as disadvantages. The potential positive nature of the split responsibility of the staff was recognised by both the YOT management and the Bail Coordinator. In the early development of the scheme, the employment of staff that were well known and respected by other members of the YOT team and, through their split roles, interacting with these colleagues on a daily basis was of great assistance in integrating the BSS with the rest of the team. Such working relations were described by one of the part-time bail workers as allowing 'total immersion' in the work of the YOT and thus integration between the workers of the BSS team and their colleagues (quote recorded as a field note during visit to YOT, October 2000). Whilst this was in the main unproblematic, at times during the period of evaluation it was clear that pressures on workload were detracting from the time spent on BSS duties. In addition the time of the trainee member of the team was also being diverted to a range of other responsibilities, most notably representing young people being held in police custody in ensuring PACE criteria governing police bail are being adhered to, and providing Appropriate Adult representation where no parent or guardian is present. Whilst being seen as 'training and upskilling', and in general welcomed by the trainee herself (quote recorded as a field note during visit to YOT, October 2000), this put additional pressures on the team.

### **Divided roles, divided focus and divided labour**

The divided roles of each of the team members clearly presents a tension amongst the subjects of the system, as the particular role each member of the team is able to play regarding BSS is complicated by additional responsibilities. This tension leads

directly to a secondary contradiction within the system as the division of labour becomes complicated by the impact on the role of the Bail Coordinator. Such mixed workloads and split responsibilities caused particular problems for the Coordinator in carrying out the combined role of managing staff and workloads, and supporting those young people subject to the scheme, whilst also developing the necessary practice, protocol and policy issues in establishing a well-functioning scheme. This was seen to be particularly problematic given the practice background of the Coordinator, for whom this was a first management role.

It was argued by the Bail Coordinator that a 'basic reassertion of the commitments of each worker to the team' through a formalised rota of working patterns would aid attempts to co-ordinate their work (quote recorded as a field note during visit to YOT, November 2000). However, senior YOT management felt that it was a core responsibility of the Coordinator to make certain that each member of staff was undertaking a sufficient workload and responsibility (interview with Operational Manager with responsibility for pre-trial services, December 2000). Having ensured that the hours dedicated to the bail team by the three YOT officers were such that the whole week should be suitably covered, it was seen as the responsibility of the Bail Coordinator, together with other staff with responsibility for the time management of these particular practitioners, to organise so as to ensure that the Bail Coordinator was not left to cover certain times alone, and did not take on more of the day-to-day functional work than was appropriate. However, my observations of the BSS team showed that, with some regularity, the Bail Coordinator was the only member of staff undertaking day-to-day tasks in relation the scheme's caseload or in covering court sessions (field notes during visits to YOT, September to December 2000).

The emphasis placed in this debate upon the role of the Coordinator in ensuring the correct daily functioning of the scheme is reflective of the broader construction of the division of labour between the senior YOT management and the Bail Coordinator during this stage of the scheme's development. In this pronouncement the Bail Coordinator was given clear responsibility for ensuring the service maintained a working presence in court; a responsibility she should not seek to divert onto those more senior. This represents one of a number of instances in which negotiation over her role and responsibilities is instigated by the Bail Coordinator during the development stages of the scheme, highlighting an apparent tension in the relationship between the Bail Coordinator and senior YOT management. The Coordinator had been critical of the level of supervision and support regarding issues she saw as 'new' to her, such as 'staff supervision' and 'making links with other agencies' (interview with Bail Coordinator, February 2000). Countering this, senior staff portrayed the Coordinator as 'wary of [the] new skills she is developing', and as 'actually operating more effectively given some autonomy' (interview with Operational Manager with responsibility for pre-trial services, March 2000).

Whilst this dialogue emerged from a discussion of the career development and line management of the Coordinator, rather than the development of the scheme, it offers some insight into the perception of the place of BSS within the priorities of the YOT at this, and later, stages in its development. The explicit proposition of this disagreement is that the Bail Coordinator is required to ensure the day-to-day functioning of the team without interference, or, from the Bail Coordinator's perspective, 'assistance'. The additional implicit inference is that the Bail Coordinator

was not required or requested to undertake any additional responsibilities towards the object of the development of the scheme, at this point in time. This implication is strengthened by the level of seniority afforded to the role. Indeed the title of ‘Coordinator’ as opposed to ‘manager’ suggests a supervisory and administrative role as opposed to a systems development remit. This is backed up by the omission of the Coordinator from YOT management meetings during the first 18 months of her role, despite the attendance of colleagues perceived by the Coordinator to have equivalent responsibility and, by her association, status.

Instead, activity towards the development of an ‘appropriate’ BSS scheme became the responsibility of the senior YOT management, as the formalised role of developing the means by which the scheme was to be delivered are separated from the more informal development of everyday practice. Whilst this was clearly in part a reaction to the contextual contradiction that required the Bail Coordinator to concentrate on the delivery of the service on a daily basis, this division of labour also appeared to be constructed by the desire of the YOT management to keep control over the formal development of youth justice services in the area and, in doing so, ensure that the requirements of the YJB were all adhered to. By doing so, the YOT management wished to define what ‘appropriate’ meant in the development of the scheme. This is evidenced by the changing nature of the division of labour over time. In the discussion below I argue the first phase of formation to be characterised by the role of the senior YOT in working towards three transitory objects, each seen as necessary in establishing the function of the scheme. I then go on to present a second phase of the development of the scheme in which this division of labour is attempted to be reversed, in order to allow those who took responsibility for formal liaison in relation

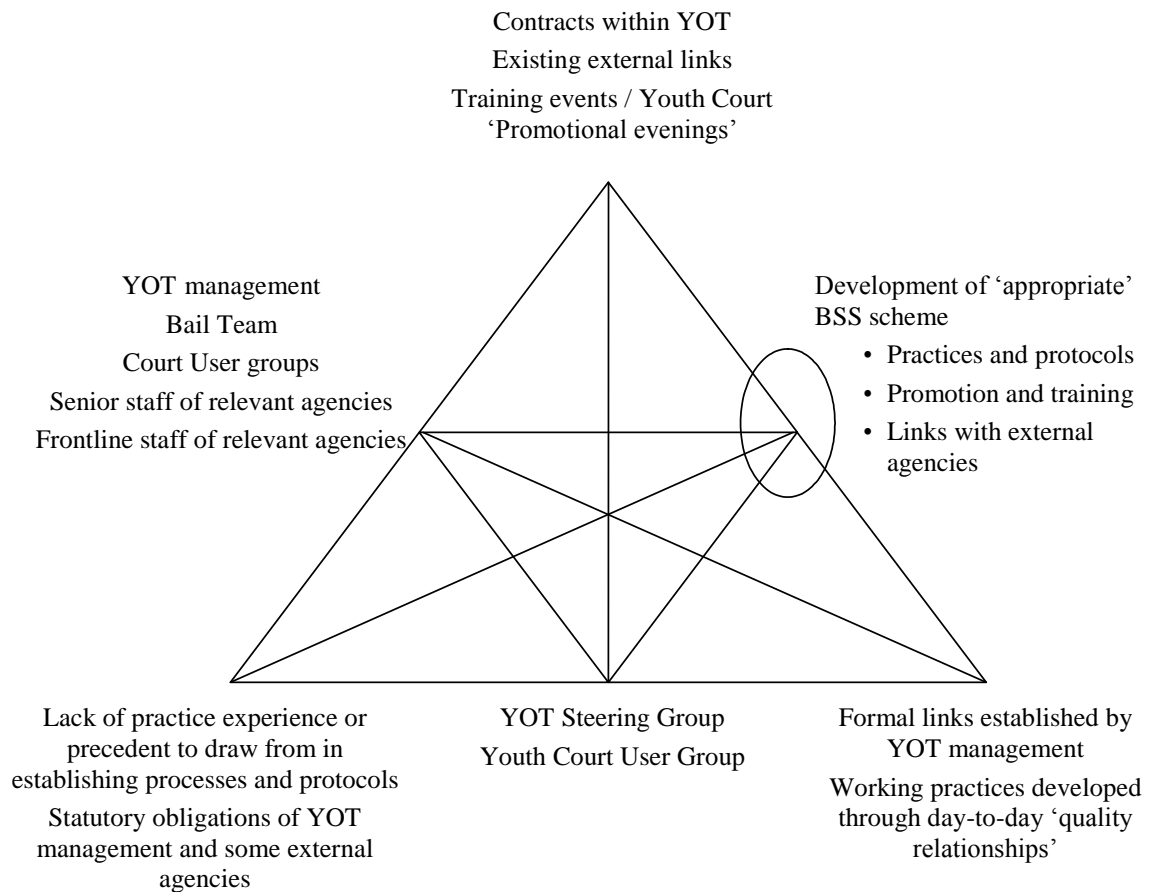
to BSS to be re-assigned, to lead on the development of other initiatives and services subsequently introduced by the YJB.

**Towards a well-functioning scheme: temporal and transitory objects of activity**

The division of labour within the BSS team, described above as incorporating the YOT management, Bail Coordinator and YOT officers, is evident in activity towards the development of an ‘appropriate’ and well-functioning scheme. Observation of the BSS and YOT activity suggested three temporal or transitory objects undertaken in developing the scheme towards this object, each of which created tools and rules subsequently necessary for the development and functioning of the scheme.

- Initial and ongoing training and promotion
- The development of practices and protocols with external partner agencies
- The development of links through which to develop components of the BSS programme of provision

Figure 5.2 illustrates the activity system in relation to these objects as described below.



**Figure 5.2. Temporal and transitory objects in the early development of BSS**

By considering the three objects in turn I will further illustrate how context influenced development. This will be seen to have occurred both directly, as the scheme reacted to the contemporary situation, and indirectly, as the division of labour noted above impacted upon the development of the scheme through each of the three lines of activity. In particular activity occurred in interaction with neighbouring systems.

This therefore further illustrates the extended local context in which the scheme began life and the obvious influence of other systems on the development of this system, and thus on the ability of the system to develop in the way prescribed by the guidance of the YJB. The discussion below outlines how the division of labour described above resulted in a definite split in the responsibilities of the bail team and the YOT operational management in establishing a functioning service. The Bail Coordinator

was left to focus on the formation of processes and the solution of practice related problems, whilst the YOT management utilised existing associations, structures and connections to formalise the required working relationships in order that the statutory (and operational) requirements of each partner agency were met. This resulted in a reliance on senior YOT management in the development stages, ensuring the Bail Coordinator is restricted to what she herself described as ‘looking inwards’ in the ‘fire-fighting’ or ‘crisis management’ of daily service delivery (interview with Bail Coordinator, December 2000). In each instance this division of labour will be found to have been inappropriate or limited, as the process of expansion overtakes the potential for development made possible by the restricted working relationships within the team.

### **Training and promotion**

The promotion of the BSS, both in the early stages and throughout the course of the scheme’s development, was as an important transitory object providing a means or subsequent tool to raise awareness, encourage familiarity and understanding. The need for continuous promotion was well recognised by the YOT, particularly with regard to magistrates, long before the National Standards for Bail Supervision and Support Schemes (YJB, 2001a) placed responsibility on the YOT manager to:

ensure that the BSS scheme is effectively promoted to magistrates, judges, justices’ clerks, CPS and the police through literature, regular presentations and other promotional activities. (Standard 13.1)

It is in the early promotion of the role of the team that we see the first emergence of the division of labour within the activity undertaken to establish and develop the

scheme. Whilst this division in role in part reflects the need for the Bail Coordinator to be taking control of the day-to-day practice, in this instance it is equally a proactive decision as to the most appropriate means to develop the scheme. The National Standards (YJB, 2001a) placed the emphasis on promotional activity on the YOT management, considering them to be in the position to have the greatest influence on the key people. This is reflected in the activity I observed. Key training events were thought to be best presented by those who were known to the audience as important figures within the YOT, and those with experience of presenting to large numbers and to figures of seniority. For example, in the month of the scheme's launch a 'training day' was held with invitations sent to all magistrates serving the youth court, although with no obligation to attend. The intention of the day was to update members of the Bench, the CPS and court clerks on the implications of recent legislation, in particular the Crime and Disorder Act 1998 from which several new interventions had now been instigated. The day was hosted by the YOT manager, the most senior member of staff within the service, with individual sessions hosted by senior Operational Managers with responsibility for each area of work.

Initial formal dialogue with relevant external agencies was therefore undertaken by the senior YOT staff as opposed to the core BSS team. Whilst this is understandable given the relative skills and roles of the individuals, it has an obvious potential impact on the messages presented to the various audiences. In the undertaking of this promotion we see a stark division of labour and influence between the YOT management and bail team that mirrors Lipsky's (1980) separation of managerial and structural processes and everyday interactions. Subsequently two very different sets of boundary processes between the BSS and youth court users are produced: the



former representing a brokering between the systems on the part of the YOT management and senior magistrates; and the latter direct interactions between the team and the bench. Through this separation daily practice becomes disconnected from the formal planning and agreement as to how such practice should operate. Such a division was presented by both the magistrates and BSS team members as an inappropriate means to develop understanding.

When asked about the initial 'training day' noted above, the BSS session was remembered by one magistrate interviewed as covering the 'transition from what we were doing to what we were going to do' such that the new scheme was 'brought in quite tenderly'. Whilst this magistrate believed that her colleagues 'were very apprehensive when [the YOT] said that there was a new system coming in', following the training it was understood that 'although it sounded a vast difference it really wasn't such a lot of difference from what we had been doing' (interview with senior magistrate and member of YCRG, December 2003). As such, detailed discussion as to the purposes and exactitudes of the scheme, and its potential, were lost in a session aimed at dealing with any potential anxieties members of the bench might have had, in relation to any of the number of new initiatives and schemes being introduced during that day. This perception was similarly presented by another magistrate interviewed who also remembered the session, describing it as 'slow', with BSS one of a number of legislative changes introduced over the course of a day: 'They were good, but... I find the training to be a bit lacking in depth'. Instead preference was given for ongoing training: 'magistrates should be gently trained all the time', for example, 'through the clerk in the courtroom.' (Interview with magistrate and member of YCRG, February 2004)

The limited potential of such ‘one-off’ events to inform the bench was also discussed. Only a proportion of the bench were thought to ‘ever attend such events’ or even the regular Youth Court User Group meetings. With such a large number of magistrates serving the city’s youth court, the magistrates quoted above both felt that many would still have a limited knowledge of what bail supervision can offer young people. Even the training events, attended by a far broader range of court users, still only attract a small proportion. Furthermore those who do attend are also those most likely to read information provided to keep themselves informed of the mass of new initiatives, and particular criteria for referral. Such promotional activities are therefore understood as, in the main, ‘preaching to the converted’ (interview with senior magistrate and member of YCRG, December 2003). Instead the main source by which promotion can take place and understandings develop was therefore considered to be the court room itself. This is in keeping with the advice of the ‘Guide to National Standards for BSS’ (Thomas and Goldman, 2001) which highlighted the need to ‘maintain the profile of the scheme on a daily basis’ through ‘a professional manner in the court setting’. It is also reflected in the BSDPU’s first national evaluation report (2000: paragraph 7.16) which highlighted the need to create ‘quality relationships’ through ‘continuous and sustained basis’ involving networking, liaison, regular attendance at court, and thus direct dialogue with magistrates. Promotion therefore becomes an everyday activity, ensuring that every magistrate sitting within the court becomes aware of the scheme when necessary.

This suggestion completely reverses the balance of influence in promoting the purpose of BSS, away from YOT managers and towards the BSS team, and court representatives in particular. Whilst the formal, high profile promotion might be

undertaken by senior staff, the working knowledge of the scheme is obtained through day-to-day interaction and use. Thus, whilst the division of labour is an implicit attempt to separate activity regarding planning or service development from that related to practice and the continued day-to-day running of service, this separation is seen as erroneous and unachievable. In the following two chapters this division is explored, and the potentially contradictory impact of these very different boundary processes on the operation of the youth court in relation to bail and remand decisions described. In this chapter, however, I necessarily restrict myself to discuss how and why such a division occurred. The next two sections of this chapter illustrate a comparable division of labour within each of the other early transitory objects.

### **Practice and protocols**

Alongside endeavours to ensure awareness and understanding came the necessary development of practice and protocol by which a daily service might be delivered. As such, the development of the mechanisms to ensure advance notice of court appearances of those at risk of being remanded into custody was an obvious early priority of those developing the scheme. Two significant pre-court methods were worked on: communication with custody sergeants; and liaison with the police. Good communication with the court cells was seen as particularly important in being aware of cases likely to be at risk of a remand into custody, having been arrested and held overnight and thus not granted police bail. A morning phone call to the cells is therefore used to gather information on the previous night's arrests. Monitoring of police stations is also apparent, principally through utilisation of PACE and Appropriate Adult services undertaken by the YOT, but also through the monitoring of all warrants issued by the police and in particular those not backed by bail.

In developing each of these approaches the importance of the division of labour between the Bail Coordinator and senior YOT management is again apparent. In this activity however it was seen to be the responsibility of the Bail Coordinator to ensure the negotiation of such agreements as fitted the working of the scheme. As argued by the first national evaluation report, 'practical activity' is vital in developing such working relations (BSPDU, 2000a). That is, it is the person on the end of the phone who informs the bail worker of the young people who are held in the court cells, and a junior member of the police force who ensures that the team are up to date with warrants issued and carried out. Thus it is through daily interaction between frontline staff that systems are altered and selectively enacted, and thus succeed or fail.

Keeping apace with the findings of the national evaluators, however, the BSS team discovered the value of the YOT management in developing such practices. As noted above, the Bail Coordinator was sceptical of her ability to influence the activity of partner agencies, particularly in the early stages of development when awareness of the scheme 'was pretty poor' (quote recorded as a field note during visit to YOT, November 2000). This is reaffirmed by the Second National Evaluation Report, in which the BSPDU (2001) highlighted the 'need to ensure that there are good communication networks between all agencies and all relevant information is to hand as this helps the scheme to be more effective in its response to young people.' The development of such links is clearly reliant on external systems and relations that the BSS team could have only limited input into and influence over, subsumed as they were within broader collective and historical relations. The language of the National Standards for BSS (YJB, 2001a) shows an awareness of this, or at least poses the

likely problem in its development. Standard 5.4 states that: ‘The police and courts **must be asked** to co-operate’ (emphasis is my own), with no obligation on either party to do so.

The dual role of the YOT management and BSS team is therefore evident once more in the development of the necessary processes and protocols through which the scheme was able to operate. Links were therefore established at a managerial level through the utilisation of existing relations and protocols between the relevant agencies, not least within the YOT steering group on which senior members of each agency sit. It is from these individuals that instructions and memos were then passed down to frontline staff explaining new procedures to be followed.

#### **Developing components of provision through links with external agencies**

Prior to being able to accept any young person on to the BSS scheme, several basic components of provision needed to be in place. In order to do so numerous links with external agencies were required. In this activity we again see the prominence of senior management in deciding what the appropriate links might be, and in making contact. However, contradictions prohibiting the development of the BSS team to the design initially envisioned equally impacted upon attempts to develop these connections. As a result we see the division of labour gives rise to a reliance on old, established links, which, I argue, created a tension in the development of the scheme.

In the initial development of the contacts and relationships seen as necessary to the functioning of the scheme, the team can be seen as essentially ‘starting from scratch’ (field note from conversation with operational YOT manager, October 2000). The

first local evaluation report (April 2000), written in the month the scheme was launched, outlined a proposed list of services to be linked with in the coming months.

The Project will be able to access a range of statutory and voluntary organisations, including Royal Fusiliers, [the local professional] Football Club, [local] Music Studios, [the city's] Drug Action Team, HIV Network, Youth Inclusion Programme, Intervention in Schools Project, Youth Service, Careers Service.

This list of services was seen to be in line with basic information provided by the YJB, reflecting several of the key areas for intervention presented in the Bail ASSET, and followed some brief consultation with the Youth Court User Group. However this list was essentially derived from 'planning' undertaken by the YOT management prior to the appointment of the Bail Coordinator described by one Operational Manager as 'brainstorming' (field note from conversation with operational YOT manager, October 2000). In developing the necessary component parts of BSS provision there was little local precedent to draw from. Despite the reported prior existence of a similar scheme, none of those involved in the early stages of the development of the new initiative had any significant working knowledge of it. Furthermore there was no obvious point of contact with those who had been involved in the delivery of the previous incarnation of bail support.

As noted above, initial plans to second or part finance workers from external organisations, such as those listed as possible service providers, had to be shelved. It had been intended that each of these workers would remain primarily within their host organisation, working with those young people referred to their particular project as a part of a bail support package. This would have provided a network of services from

which to draw on to deliver the range of component parts of the programmes as required, leaving the YOT staff to primarily concentrate on court processes and assessments. However, as described above, these links could not be made in such a formalised manner. Given this uneasy beginning, aggravated by the late appointment of the Bail Coordinator, in the initial stages the scheme had been reliant on the existing contacts from within the YOT in developing the provision necessary to provide bail support packages. Contacts and working relations were therefore established with those agencies already providing services under various other initiatives and programmes, as existing links were quickly utilised by the YOT management in the early stages.

Such links were, however, not specific to pre-trial work and were, therefore, not necessarily readily adaptable to the specific requirements of the particular client group. Furthermore, due to the potentially short period of time in which intervention can occur, referral is required to be swift and therefore prioritised, as suggested by the Guide to the National Standards (Thomas and Goldman, 2001).

It is essential that referral within the YOT, to specialist agencies or other service providers needs to be negotiated and agreed on an agency basis. This is to ensure immediate priority access as delays caused within referral processes may jeopardise the success of bail supervision and support programmes.

This may, of course, not be possible given the range of programmes within the YOT requiring referrals to such services.

Whilst there is some evidence of the transformation of pre-existing networks the development of new, additional and specific links was a much slower process. Indeed, several of those planned at the outset had still not happened at the end of my evaluation period, including the more ambitious links to the local professional football club and high profile leisure facilities, such as music studios. This reflects the contradictions in the development of the system described above. The Bail Coordinator was not in a position to develop new networks or links during this period of the scheme's development, given both the time needed to ensure the running of the service on a daily basis and her inexperience in liaison with external agencies.

Once more, therefore, we see a division of labour within the activity system that allowed for the swift development of the scheme in a basic, skeleton form capable of delivering the service required of them within the short timeframe for initiation given by the YJB. The limitations of such an approach, once again, become apparent in the ongoing expansion of the scheme as tensions in activity emerge. In relation to components of provision, these limitations surface with the acceptance on to BSS of young people for whom a particular element of provision is necessary, or special, unusual requirement must be agreed. With such a case comes the need for new or altered links to be developed, and thus for a BSS system capable of developing its own new and case-specific networks in response to such requirements.

### **Internal transformation for external interaction**

In activity regarding each of the three transitory objects we therefore see the expansion of the scheme curtailed by the limitations imposed by the division of labour constructed at the outset. With regard to promotion and training, the separation of



formal and informal means of communication was seen to be flawed in attempting to reach all court users. In establishing practices and protocols, managerial links were seen as necessary to secure frontline staff adhered to agreed working relations. Finally, in developing links with external agencies, the BSS team needed to be able to react to their own changing caseload in order to meet the requirements of particular cases. As such, the division of labour developed internally was required to change in order for appropriate and necessary interactions with its immediate environment to occur. The following discussion thus describes the process of internal transformation of the central system in order to allow for improved external interaction, in turn required for further internal development. In particular, I argue that such transformation gives rise to a system capable of working with and impacting on neighbouring systems, by operating independently of the wider YOT in key boundary zones of relevance to its own activity. The remainder of this chapter therefore outlines the changing nature of the Bail Support and Supervision team, incorporating not only a shift in the division of labour within the central system but also a noticeable shift in the perspective and priorities of senior management regarding the YOT generally, and therefore the purpose and object of the scheme in particular. The discussion will explore whether this transformation is encouraged by YOT management to intentionally produce a more autonomous BSS system or the consequence of necessity brought on by changing wider priorities.

The shift to what might be considered a second phase of activity comes in, or is evidenced by, the attempted resolution of the contradictions within the system that prevented the Bail Coordinator from taking on a management and development role within the scheme; and in particular from having the capacity to represent the scheme

in interactions within the appropriate boundary zones (i.e. settings in which interaction with neighbouring systems impacting upon the development of the scheme occur). As argued above, at this stage in the scheme's development two contradictions were evident in working towards the transitory object of the establishment of a scheme capable of functioning to the role required of it. Firstly, pressures on the individual team members, due to combined roles within the YOT, represented a quaternary contradiction, giving way to a primary tension within the division of labour of the central system. Secondly, the ability of the Bail Coordinator to act a way necessary to ensure the continued development of the scheme was hindered by the lack of opportunities provided for her to manage the team as opposed to work within it, representing a secondary contradiction between subject and division of labour. Both of these tensions were illustrated in Figure 5.1.

The first of these contradictions was resolved as a welcome consequence of unplanned staff turnover within the team. As previously noted one of the members of staff was employed on a temporary basis prior to entering the Probation Service, and left after 12 months. The two part-time bail team workers also left the YOT for external posts in quick succession. The reason for this was that many contracts within the YOT remain short, and thus jobs are perceived by workers as insecure. This resulted in both employees seeking alternative employment in preference to extending their stay within the YOT. Such problems with staff turnover were found to be common amongst BSS projects nationwide, as reported in the second report of the national evaluation (BSPDU, 2001). While this is not something that can be easily overcome, it is detrimental and unsettling to the work of the YOT and to the development of newly formed BSS schemes in particular. Within the area in which I

worked this potential volatility was alleviated by the attachment of the scheme to the wider YOT, allowing for a secondment of a skilled and experienced colleague. In place of two part time officers a full-time worker was appointed, dedicated to the BSS team. This instability, therefore, presented the opportunity for significant changes to be made to the operation of the BSS team. Unlike the initial appointments made before her arrival, the restructuring ensured the make-up of the team subsequently met the needs identified by the Bail Coordinator.

Whilst immediately resolving the problems regarding coordination, and in doing so alleviating the pressure on the Bail Coordinator to undertake as much of the daily workload, it brought with it additional problems. Reliance on a smaller team created problems should there be any illness or unplanned absence, although assurances were made by senior staff that, were there to be an emergency situation, cover would be available. In response it is at this time we also see the first involvement of a volunteer within the team. The use of volunteers had long been espoused by Nacro Cymru and the YJB as an appropriate means of delivering elements of BSS. This is formally recognised in the National Standards for BSS (YJB, 2001a).

BSS schemes should consider making use of mentors, volunteers or sessional workers to provide additional support to the young person, particularly in terms of maintaining involvement in education and training. (Standard 9.3)

This need for volunteers had been recognised early in the evaluation process. YOT management identified that early expansion to the caseload of the team, and its expected continuation, made the need for volunteers and sessional workers ‘paramount’ (field note from conversation with operational YOT manager, October 2000). As is explained in the following two chapters, the function of the scheme

began to expand and the role of the BSS team members became fragmented between skilled work (court assessment and representation, provision of support and addressing need) and unskilled work (surveillance, accompanying to court). With the increase in numbers referred to the scheme, together with the growing tendency of magistrates to demand extra contact between the team and the young people made subject to BSS, the workload, and variation within it, greatly increased. It was clear therefore that it would soon become necessary to remove the less skilled, yet time consuming areas of support from the work of the skilled bail workers. Furthermore, full-time, 9 to 5 workers would not always be able to provide the flexibility the project may require, particularly regarding evening and weekend leisure time activities (field note from conversation with operational YOT manager, October 2000). Similarly, the cost-effectiveness of hiring further full-timers would have to be questioned. Thus the use of volunteers can be seen as a further attempt to alter the division of labour within the bail team, through a separation of the roles of the assessment of young people and the delivery of programmes.

This change in the make-up of the team clearly has a knock on effect on the role of the Bail Coordinator. The Coordinator was often felt to be acting more as a direct, if senior, practitioner, as opposed to overseeing and organizing the work of the team. She was therefore unable to develop the scheme appropriately. The partial separation of the roles and tasks within the team, as well as the new staff only undertaking BSS work both made management of staff easier, and released the Coordinator to undertake a broader role. This allowed her to begin to operate 'one step back from the day-to-day running of the scheme', adopting a far less practitioner-like role, and instead focusing attention on the development and promotion of the scheme in the

appropriate settings (field note from conversation with Bail Coordinator, August 2001).

Such a transformation was not necessarily purely for the benefit of the BSS scheme however. The functions of the YOT constantly and rapidly developed, leading to a range of competing management pressures. During 2001, a seeming shift in prioritisation amongst senior YOT management occurred, with an ever-changing government agenda and influx of new interventions and programmes. Of particular note at this time was the introduction of Intensive Surveillance and Supervision Programmes (ISSP) which brought with it a significant expansion of the YOT, including new premises. The reprioritisation was reflected in the subsequent change of management responsibility for the BSS scheme, with the Operational Manager who had established the scheme being moved over to the new ISSP project to similarly develop that scheme, with the remit for BSS added to another manager's role. Within this reprioritisation the opportunity to devolve managerial responsibility for the scheme to the Bail Coordinator was clearly welcomed.

The introduction of National Standards for BSS (YJB, 2001a) can also be seen to have enabled such a reprioritisation, without a necessary accompanying desire to empower the BSS team. The Standards provided a basis from which the Bail Coordinator could be held to account in developing the scheme, and thus a tool, or even perhaps a set of rules, by which the senior management can check progress and maintain confidence in the scheme's development. Alternatively, however, the publishing of this document can be seen as intended to reiterate the importance of bail supervision. These standards are presented as 'a framework for service delivery that meets the Youth

Justice Board's objectives... and provide clarity on a range of issues including programme content, enforcement and breach.' (Thomas and Goldman, 2001: 4)

Clearly one target group for such an impact are senior YOT management given that contained within Appendix Two of the accompanying 'Guide' (Thomas and Goldman, 2001) is a box summarising the numerous 'Management Responsibilities' outlined in the National Standards (YJB, 2001a).

From both perspectives therefore the guidance specified by central government provided an artefact on which to secure the desired division of labour. Whilst not representing an object in its own right, it had the potential to be utilised by both parties to support their own attempts to transform the object and guide activity within the central activity system.

| MANAGEMENT RESPONSIBILITIES  | STANDARD  |
|--|---|
| <p>It is the responsibility of the Yot Manager to:</p> <ul style="list-style-type: none"> <li>• Develop a comprehensive remand management strategy and ensure that it is integrated into the work of the Yot</li> <li>• Ensure that there is bail supervision and support provision available to all young people aged 10 to 17 in the Yot area</li> <li>• Ensure programmes and services address the Youth Justice Board's three key aims for bail supervision and support</li> <li>• Ensure the scheme is effectively promoted to relevant youth justice agencies on an ongoing basis</li> <li>• Ensure that staff are available to cover all Youth Magistrates, Crown courts and Judge in Chambers applications</li> <li>• Ensure that workers receive appropriate training</li> <li>• Ensure that comprehensive and appropriate case records are maintained</li> <li>• Ensure that annual data is compiled to monitor bail supervision compared to other bail and remand options</li> <li>• Monitor services to ensure that young people's needs are met and inform the Chief Officers' Steering Group if there are gaps in provision</li> </ul> | <ul style="list-style-type: none"> <li>• 1.1 and 2.1</li> <li>• 2 and 3.1</li> <li>• 4.1</li> <li>• 13.1</li> <li>• 5.3</li> <li>• 3.2</li> <li>• 12.1</li> <li>• 2.1</li> <li>• 9.2</li> </ul> |

**Figure 5.3. Management Responsibilities outlined in the National Standards for BSS Schemes. (Thomas and Golman, 2001: Appendix Two)**

**The impact on the ideal object formation**

The discussion of this chapter has identified a number of internal shifts in the central system as it evolves in relation to the broader YOT systems within which it is nested.

The impact of this transformation on the central object of activity for the BSS system is not explicitly obvious. With structures set by the YOT management, there is the

implication of an inherent agenda reflecting their perspective on the object. As noted in the previous chapter, the idealised object formation of this group reflected that of central government in seeking a reduction in offending whilst on bail. However there are no apparent signs that this object is being sought through the creation of appropriate strategies. Furthermore in the transformation of the system described it is not clear that the central object is itself altered. Indeed the defined central object seems of little relevance to the changes instigated by senior management. We are therefore drawn to question the stated object of these subjects. By observing actual activity we see that the object of the YOT management, at this stage in the development of the scheme, is not reducing offending per se, but the meeting of statutory requirements through the establishment of the processes and structures necessary to have the scheme in place. Once the enablement of the scheme has been achieved the nature of the involvement of senior management alters to one of distance, resulting in relative autonomy for the Coordinator. This seeming focus on the fulfilment of formal requirements, and thus the enablement of the scheme, as opposed to its subsequent direct functioning, reveals the initial concern with the Government priority to reduce offending to be premised in an endeavour of meeting statutory requirements, as opposed to being a motivation for activity. This is of course not to say that there is not a genuine commitment to reduce offending on bail; rather that this is not the primary motivation for activity.

Given this, it is then unsurprising that we do not see a conceptualisation of the central object of the system guiding the changes taking place within the YOT, as directed, or at least permitted, by senior management. The argument does not present the YOT as a setting that has altered the nature or perspective on the central object of key subjects



during this period to any great extent. Instead the outcome of this activity has been to define the basis from which the central, ongoing object might be realised. As such we have seen contradictions within the central system identified and rectified without an associated challenge to the varying perspectives on the object given at the formation of the scheme. Through this narrative I argue that there is no resolution to the multiple perspectives on the ideal object of the scheme discussed in the previous chapter. Indeed, this object is seemingly absent in activity to develop the necessary structures and processes for a functioning BSS scheme. As such, the ideal object of the scheme remains disputed as the team takes shape. The impact of this unresolved tension on activity, and therefore the outcome of activity, begins to emerge in the development of a division of labour which impacts directly upon the activity of the subjects of this central system within boundary systems, as described in the proceeding chapters.

### **From internal development to external influence**

The above discussion presented BSS as an open system, altered by the environment in which it exists, as it aimed to in turn alter the environment around it. I therefore argued that a gradual, co-evolution of the BSS system took place, through interaction with the YOT in which it is based and its immediate wider environment. The immediate context of the system were argued to have influenced system in a variety of ways: in the selection of subjects in order to develop a BSS team; in the construction of a division of labour such that the multiple concerns at this time could be met; in the emergence of contradictions in the initial make-up of the activity system; and in the subsequent redevelopment of the system, as the resolution of the emergent tensions and contradictions is attempted. This interaction was, therefore,

principally defined by a division of labour constructed as both a proactive and reactive attempt to develop a scheme within the context. I evidenced the desires of YOT management to control activity geared at developing the scheme, and in doing so ensure that the statutory requirements imposed by the YJB are adhered to. In addition such an approach was argued to reflect the skills of the relevant subjects, and therefore to represent a potentially effective means of establishing an operable scheme. However, I have simultaneously argued such an approach to be a necessary reaction to the quaternary tensions brought about by the split roles and responsibilities of the initial BSS team, and the subsequent pressures on the Bail Coordinator in maintaining the daily functioning of the scheme.

Within the project's development period I therefore evidenced a stark division of labour that sought to separate the formation of processes and the solution of practice related problems, from the formalisation of the required working relationships in order that the statutory (and operational) requirements of each partner agency were met. This division of labour was then shown to have influenced activity towards three transitory objects, each seen as necessary in establishing the function of the scheme, and each in itself further influenced by the particular context on which the scheme has developed. In activity regarding each of the three transitory objects we therefore saw the expansion of the scheme curtailed by the limitations imposed by the division of labour constructed at the outset. As such, the division of labour developed internally was required to change in order for appropriate and necessary interactions with its immediate environment to occur.

In response I argued a second phase of the development of the scheme to have taken place. In this phase this division of labour is attempted to be reversed, in order to allow those who took responsibility for formal liaison in relation to BSS to be re-assigned, to lead on the development of other initiatives and services subsequently introduced by the YJB. This shift comes in the attempted resolution of the contradictions within the system perceived as hampering activity, and in particular in the subject-object relationship increasingly impractical in the context of the changing requirements in the external relations of the scheme. Within the early development of the scheme, contained in the YOT structure, we have therefore seen the early misalignment of components of the system caused by an inappropriate and unsustainable division of labour, given both external pressures brought on by the involvement of subjects in neighbouring systems and a successive internal contradiction. As such we have seen a process of internal transformation of the central system in order to allow for improved external interaction, in turn required for further internal development. I argued that such transformation gave rise to a system capable of working with and impacting on neighbouring systems, by operating independently of the wider YOT in key boundary zones of relevance to its own activity.

Complicating this shift in the division of labour within the central system was the accompanying shift in the perspective and priorities of senior management regarding the YOT generally. As discussed, senior YOT managers can be seen to have reprioritised their concerns to reflect a changing or developing government agenda. It remains unclear, therefore, whether this transformation is encouraged by YOT management to intentionally produce a more autonomous BSS system, or is in fact the consequence of necessity brought on by changing wider priorities and the impact of

the YJB on the activity of the YOT, through changing official priorities, the appearance of new and more detailed guidance, and the frequent introductions of new schemes and initiatives.

The next two chapters will show that changes that occur within the scheme are at the same time both attributable to, and the result of, the changing perception of the scheme, and its central object, amongst key stakeholder groups, internal and external to the YOT. In doing so we will begin to understand the position of the scheme in the complex interactions of the context: firstly, between the YOT management and the Youth Court User Group; and, secondly, between the YOT staff and other court users. The perspectives of each stakeholder group are not distinct to the issue of bail but will be seen to be reflective of a far wider range of issues being dealt with. Thus, through BSS we see the playing out of a complex relationship between several important and established groups, as illustrated by Figure 3.1. The following two chapters therefore present the relative importance of the range of boundary processes impacting on the central activity system.

## **Chapter 6. Developing activity at the system boundary: negotiating influence within the youth court**

The following discussion explores the development of the local Bail Support and Supervision scheme within the contested spaces of the youth court and its associated liaison groups. In doing so it compliments the previous chapter, by continuing the examination of the development of the central activity system, within the localised context of the broader policy and practice environment in which it is embedded.

Thus, the co-evolution of the BSS scheme and wider YOT, as evidenced in chapter 5, is further broadened by considering the co-evolution of the YOT and the youth court, through the youth court liaison groups and the development of day-to-day processes. Such a discussion also offers further evidence of the impact of the division of labour outlined in the previous chapter, such that the YOT management concentrated on formal liaison, whilst the Bail Coordinator and her staff were left to develop informal practices.

Figures 3.1 and 3.2 illustrated the importance of the youth court, and the working groups associated with its functioning, as a space in which activity surrounding the implementation and development of BSS was played out. Indeed the youth court can be seen to be the most obvious setting in which the multiple voices and concerns of the subjects and actors with a stake in, and influence on the central activity system collide. It was on the basis of actions undertaken and decisions made within this setting that the scheme developed, defining the nature of the interventions provided, and therefore impacting upon the likelihood of the scheme successfully meeting its aims and objectives, both in relation to an individual case and for the scheme as a whole.

The following discussion therefore outlines activity in two settings: the youth court liaison groups; and the courtroom. The division of labour within the BSS system will reveal this activity to have developed discretely, with seemingly divergent motivations. As such I argue activity within the boundary settings to be in tension: unsynchronised, if not directly contradictory; and divided in terms of both role and intent. Whilst the YOT management concentrated on seeking the agreement of other court user groups as to an idealised object, there is little evidence of activity towards establishing the rules and tools by which court decisions might be made towards this ends. Although general agreement was reached, this will be argued to be an abstract representation of intent, not easily translated into the day-to-day and case-by-case functioning of the youth court. Indeed the focus of the youth court liaison groups was confined to the aggregate, with little regard as to how individual cases might be resolved so as to work towards this aim. The development of processes and practices by which bail decisions are made was therefore left relatively unchanged. Whilst the need to consider BSS within remand decisions was agreed, the basis upon which decisions were made as to whether bail was possible was not challenged. In particular the language and structure of the assessment of the Bail ASSET was not put forward as a means by which to consider cases. Thus, I argue the professionalism and expertise of the BSS staff assessment to have been insufficiently emphasized.

Negotiation as to the processes of decision-making instead occurred at the level of practice and daily interaction, and therefore between the BSS team and other court users. Attempts to immediately influence decision-making rationales and processes were therefore restricted by the relative powerlessness of the YOT staff within the

court, and the newly created BSS team role in particular. Before such influence could occur the team required acceptance in the setting, described as a series of transitory objects of seeking legitimacy, trust, and the valuing of their professionalism. I will argue that this was in turn achieved by being a respected and useful member of the youth court team, carrying out an assigned role professionally and satisfactorily, as negotiated with other actors within the setting, ensuring the perception that the role carried out by the BSS team representative contributed to the suitable functioning of the youth court. In such activity, I will argue that the particular agenda of the BSS team was not easily addressed. Instead, the team were forced to be reactive to the context and setting rather than proactive in changing it to meet the requirements of the scheme. It is only by addressing the concerns of others that the team were able to work towards their own aims and objectives.

This will be argued to have impacted greatly on the activity of the team in undertaking assessments and making recommendations to the court. Rather than putting forward cases on the basis of professional judgements premised in risk factor analysis, the team were necessarily restricted to addressing the concerns of the bench as they emerged in relation to each case, in an attempt to ensure favourable decisions through the appeasement and placation of magistrate perspectives. As such, those risk factors defined by the YJB became secondary to the “headline” concerns as described by those magistrates I interviewed. The tool provided by the YJB in order to manage assessments and guide subsequent support for the young person is therefore sidelined by the necessity to respond to magistrate concerns. This shift away from professional judgement to magistrate appeasement will be seen to lead to a corresponding shift in strategy in assessment, such that the team became less likely to ‘gamble’ by putting

forward packages for those likely to be remanded into custody. In this approach the aggregate begins to take priority over the individual: a marked change in approach by the BSS team. Furthermore attempts to address, and indeed pre-empt the concerns of the bench will be seen to have lead to the tendency to pursue the maximum restrictions (likely to be) requested, as opposed to the minimum restrictions seen to be necessary by the team. As such there is the potential for increasing supervision and surveillance, directly counter to the central object of the BSS team in minimising restrictions to liberty.

In short, therefore, the following chapter shows how the necessary construction of a series of boundary objects, in both the youth court liaison groups and courtroom settings, coupled with the division of labour in undertaking such activity, impacts upon the development of the scheme towards the stated ideal object. Before giving consideration to the specifics of activity observed, however, I will first return to the theoretical basis of my study in exploring how the youth court might be conceptualised and thus explored as a system in the language of activity theory.

### **Defining the boundary zones**

In exploring how bail and remands decisions are made it is important to understand the context in which pre-trial court appearances operate. There is, however, not the space here to discuss in detail the historical form and functioning of the youth court or recent changes to its operation. For such a discussion see, for example, Gibson et al (1994) or Ashford and Chard (2000), with updates (as briefly highlighted below) contained within Allen et al (2000) and the Home Office ‘Good Practice Guide’ (2001). Instead I therefore rely on the Youth Justice Board’s own basic description,



drawn from their website ([www.yjb.gov.uk](http://www.yjb.gov.uk)) and presented in Figure 6.1, as a means to inform the uninitiated.

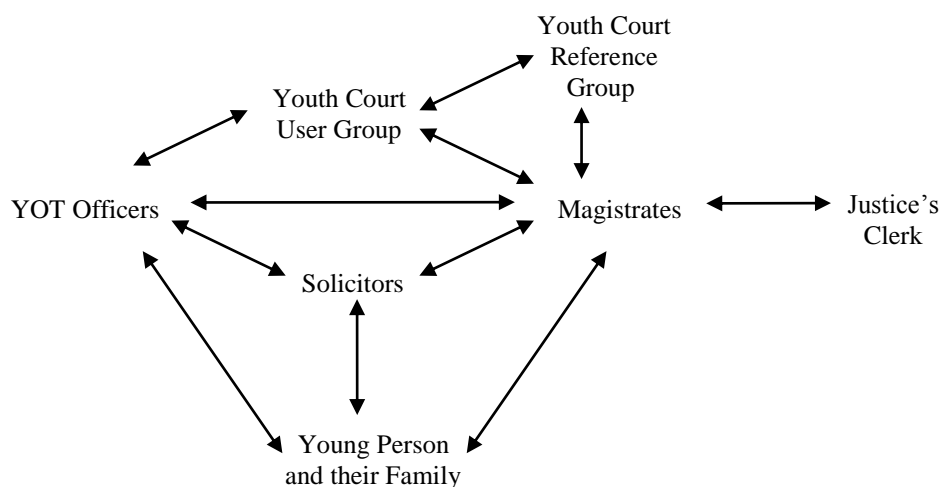
**Figure 6.1. The youth court (Taken from [www.yjb.gov.uk](http://www.yjb.gov.uk))**

Adult magistrates' courts can only undertake trials and sentence people for offences for which the maximum penalty is six months in prison. Magistrates' courts deal mainly with cases involving people over the age of 18. They can deal with young people, but only if they are being tried with an adult.

The youth court is a section of the magistrates' court and can be located in the same building. It deals with almost all cases involving young people under the age of 18. This section of the magistrates' court is served by youth panel magistrates and district judges. They have the power to give Detention and Training Orders of up to 24 months, as well as a range of sentences in the community.

Youth courts are less formal than magistrates' courts, are more open and engage more with the young person appearing in court and their family. Youth courts are essentially private places and members of the public are not allowed in. The victim(s) of the crime, however, has/have the opportunity to attend the hearings of the court if they want to, but they must make a request to the court if they wish to do so. The needs and wishes of victims will always be considered by the court and, through the Youth Offending Team (YOT), they often have the opportunity to have an input into the sentencing process.

Figure 6.2 then serves as a simple representation of the youth court, highlighting the actors and settings relevant to its daily operation, as contained in the more complete illustration of the interactions of youth justice policy development and delivery within Figure 3.1. As noted previously the diagram must be considered to be a limited interpretation, and not reflective of the complexity within these categories. Similarly it does not attempt to describe the relative strength and direction of influence between groups and agencies. It should however make clear the intricacy of the interprofessional relations occurring on a daily basis within the courtroom.



**Figure 6.2. The operation of the youth court**

In order to provide a basis on which to develop discussion, Figure 6.3 (overleaf) outlines the particular roles and responsibilities of the various actors within the youth court, as defined by the Youth Justice Board and taken from their website ([www.yjb.gov.uk](http://www.yjb.gov.uk)). This description highlights the role of the Youth Offending Team, presented as ‘central’ to the process ‘providing support and advice to offenders and their families, liaising with local authorities and other agencies, and providing information, resources and advice to the courts themselves.’ (Moore and Smith, 2001: 44) Such a role requires a responsibility on the YOT manager to ensure representation of the service whenever a youth court is sitting, and furthermore whenever a child or young person is appearing before an adult court (YJB, 2001a: Standard 6.6.1).

**Figure 6.3. The key actors within the youth court (Taken from [www.yjb.gov.uk](http://www.yjb.gov.uk))**

### **What is the role of a magistrate?**

Magistrates are members of the local community and as such have knowledge of the local area and services. They volunteer to be magistrates. They are trained to:

- administer justice
- decide on questions of law, practice and procedure
- sentence young offenders in line with legislation and the Human Rights Act, alongside the welfare of the child.

Magistrates usually sit as a panel of three with one acting as the chair who has responsibility for addressing the court.

### **What is the role of a justices' clerk?**

The justices' clerk gives legal advice to the magistrates and is responsible for the smooth running of the court. They record the results of cases and assist people who do not have a representative to present their case.

### **What is the role of the Crown Prosecution Service (CPS)?**

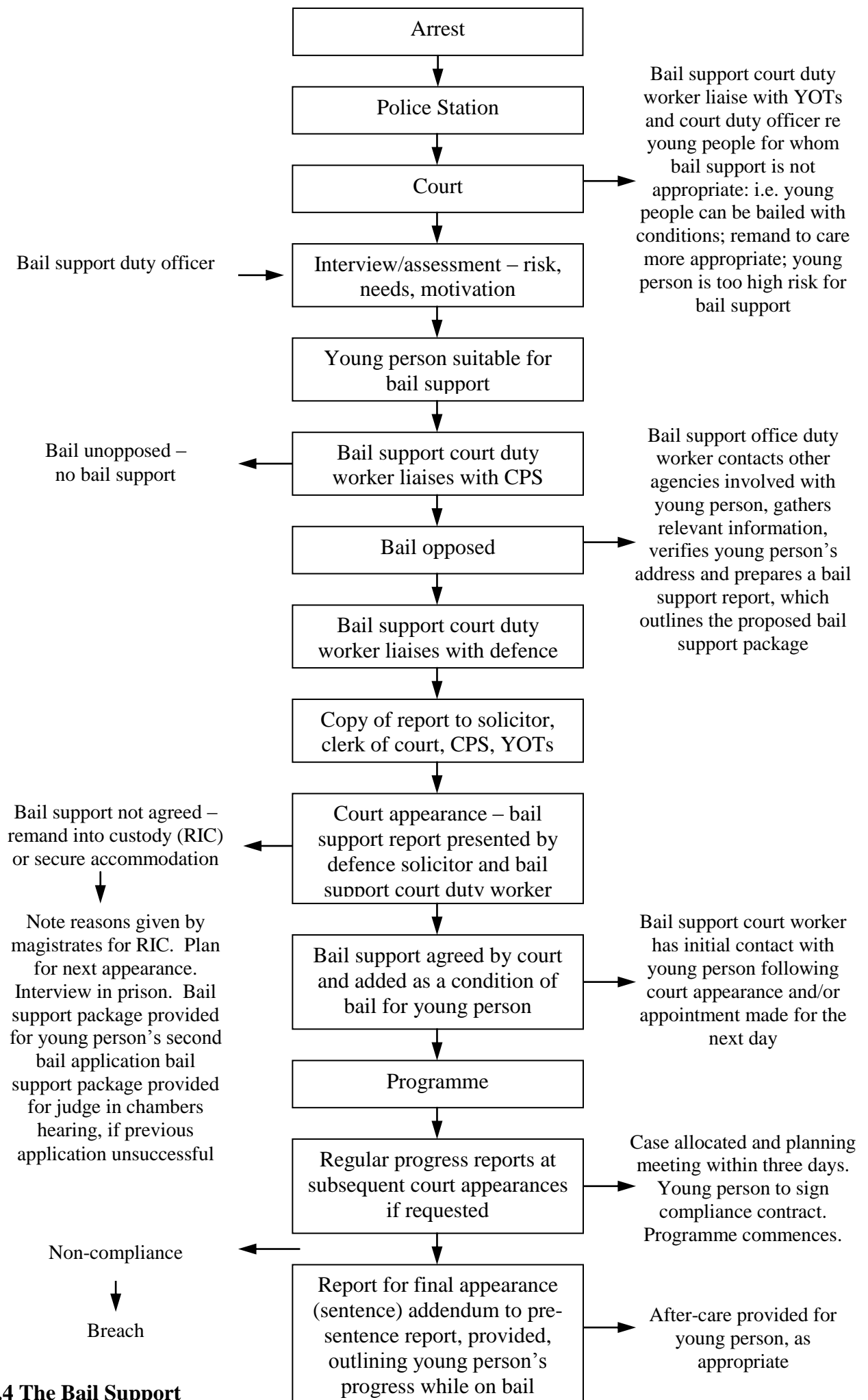
The CPS presents the case against the young person appearing in court. It is their job to present all the facts to the magistrate so that they can make a decision. It is their job to work closely with the police to gather all the available evidence to make the strongest case.

### **What is the role of a defence solicitor?**

A defence solicitor represents the young person appearing in court and acts independently, in their best interests. The young person appearing in court is the person they are working for, not their parents or other professionals. They take instructions from the young person and provide them with legal advice on the charge, procedure and plea (guilty or not guilty). They also speak for the young person in the court.

All young people appearing in court are entitled to be represented by a solicitor. The solicitor can be one chosen by the young person or the duty solicitor. Legal aid is available to pay for these services.

The particular interaction of the multiple roles carried out in relation to bail and remand decisions is illustrated by Figure 6.4 (overleaf, taken from Moore and Smith, 2001: 54), which demonstrates ‘The Bail Support Referral Process’ from arrest to sentence. Whilst presenting a seemingly simple, linear course of action each stage can be seen to involve professional judgement, with room for a breadth of perspectives and influences on decision-making. It is immediately clear therefore that a range of subjects, each with a particular and distinctive set of roles and responsibilities, operate together within the youth court setting. As such Moore and Smith (2001: 44) follow other commentators in comparing court processes ‘to theatrical performances, with a fixed range of formal roles, prescribed scripts, and very explicit stage directions’, with each participant therefore (merely) ‘performing one’s assigned role’. Given such a cursory representation of the court room we might suppose that we witness only ‘operations’, as defined by Leont’ev in his hierarchical structure of activity (see Figure 2.2.). That is, daily interactions might be seen to be the operationalisation of formal rules, in a standardised and unconscious manner. In this model court activity might be thought to be merely the playing out of a pre-determined script, in order that particular cases are dealt with appropriately and routinely. If this were the case, the focus of our attention should therefore be on the means by which this script is decided. That is, the study of youth court decision-making should in fact be the study of statute and legislation, and of the bodies that translate it; namely the senior staff within each professional group and the Youth Court User Group and Reference Group on which they sit.



**Figure 6.4 The Bail Support Referral Process**

Such a conceptualisation is however counter to both the theoretical framework and the conclusions of Lipsky (1980). The formal and prescribed nature of the roles carried out by those operating in the court room is clear, but such a description denies the developmental possibilities of the setting, as demonstrated by Vaula Haavisto's study of 'Changing Work Practices in a Finnish District Court (2002), which describes the expansive potential of such a setting in the face of procedural reform.. Within this boundary zone, hosting the activity of a number of subjects principally housed within external, neighbouring systems, a multitude of goal-directed actions occur. These actions necessary involve interaction between the professional groups involved, based upon a series of agreed (yet constantly renegotiated) processes, rules and structures, functioning so as to allow the smooth operation of the system, able to meet the needs and responsibilities of each individual and group where possible. Whilst courtrooms operate to an agreed set of formal rules and regulations, and follow jointly agreed formal and informal working processes, it is also clear that the aims of the various subjects within this interaction are not always the same. In addition, it is clear that a power differential exists within the interactions between stakeholder groups such that, even when seen to be performing a defined role, each actor may seek to influence not only the decision of the magistrate but the position of each of the other contributors to that decision. Thus an alternative model of the courtroom might present the performance of each individual or group as a series of actions towards a particular conscious goal, connected to the overall object of activity for that group. For example, in the discussion below I shall argue that the actions of the youth worker, representing the YOT within the youth court, are focused on the particular case, yet rooted in far broader and longer term aims for the service.

The youth court can therefore be considered a site of shared or connected activity. As such it involves the creation of an intersection of interests between the communities; a consequence of the legal and functional necessity to work together to determine the outcome of a particular case. In doing so, it also creates a subsequent tension as to how such a case should be successfully resolved. The actions undertaken by each of the subjects in working on this boundary object of the particular case must be understood to be based upon externally and historically constructed practice, yet governed within the setting by a set of rules and processes (in part at least) created collectively by the subjects within the boundary zone. Within the setting we must therefore consider the dialogue between the relevant professional groups, each with specific goals as well as formal roles, and with a distinctive, and at times confrontational, perspective on the object. Each subject within the youth court brings into the space an externally created perspective, from within their historically constructed, relatively enduring, community of practice. This perspective is immediately challenged by the other subjects operating within the system. Once again we therefore see the combination of formal, rigid rules as laid out by legal and policy requirements, together with an interplay surrounding informal, daily interactions and processes negotiated among the 'street-level bureaucrats'. The apparent primary contradiction in perspective is not easily resolved given the prescribed range of subjects involved, the formal rules that must be followed, and the associated rigid division of labour and power imbalance inherent in the system. I will argue below that this resolution is achieved through internal negotiation towards a boundary object of amenable working practices.

Whilst again providing an abstract conceptualisation of the youth court, such an understanding of the setting as a boundary zone, with an object shared by its multiple stakeholder groups, provides a basis from which to explore the range of disparate objects and actions within the setting, and how they interact, intersect, conflict and compete. For the study at hand such a conceptualisation provides the basis from which to explore the perspective of a range of magistrates on the BSS scheme, by placing it within the far broader context of youth court operations where BSS is not necessarily a priority, but merely one facet of the more complex youth court decision-making processes. This in turn allows for an understanding of the development of the BSS scheme in reaction to activity in this setting.

This conceptualisation of youth court activity therefore requires the understanding of activity in two boundary zone settings: the youth court liaison groups, created to provide a forum for formal development and monitoring of youth court practice; and the youth court itself, through an exploration of the daily practices that have developed in order to resolve emergent tensions. The unfolding discussion below therefore seeks to explore activity within these settings. In both instances I first describe the apparent focus of activity within the boundary zone, before arguing the particular impact this is seen to have on the development of BSS. In particular I highlight the apparent contradiction between the focus on the abstract and aggregate within the youth court liaison groups, and the necessary immediacy of youth court practice when faced with individual cases.



### **The role and function of youth court liaison groups**

If we are to understand the youth court as a boundary zone, the youth court liaison groups must be understood as contributing towards the formation of that boundary by creating much of the artefacts, rules and even conceptualisations of the boundary objects on which the zone is premised. The National Standards for Youth Justice (YJB, 2002a: 6.2) place responsibility on the Justices' Chief Executives and YOT managers to draw up, and annually review, Youth Justice Service Agreements. These agreements outline the 'basis on which agencies will work together to provide a court service' through 'a description of the commitments made by each participating agency' (Moore and Smith, 2001: 45). The need for such an agreement gives rise to a supporting 'liaison group' to enable a 'constructive dialogue away from the tensions and pressures of the courtroom', in which to review collaborative working relationships with the particular roles and responsibilities laid out in the National Standards for Youth Justice (YJB, 2002a: 6.1). In short the primary purpose of this liaison group might be seen to be to ensure the 'correct' or 'efficient' functioning of the local youth court, with the exact nature and understanding of these terms to be negotiated through a translation of statutory requirements and practice guidance set by Government and the Youth Justice Board so as to fit the local context and dynamics.

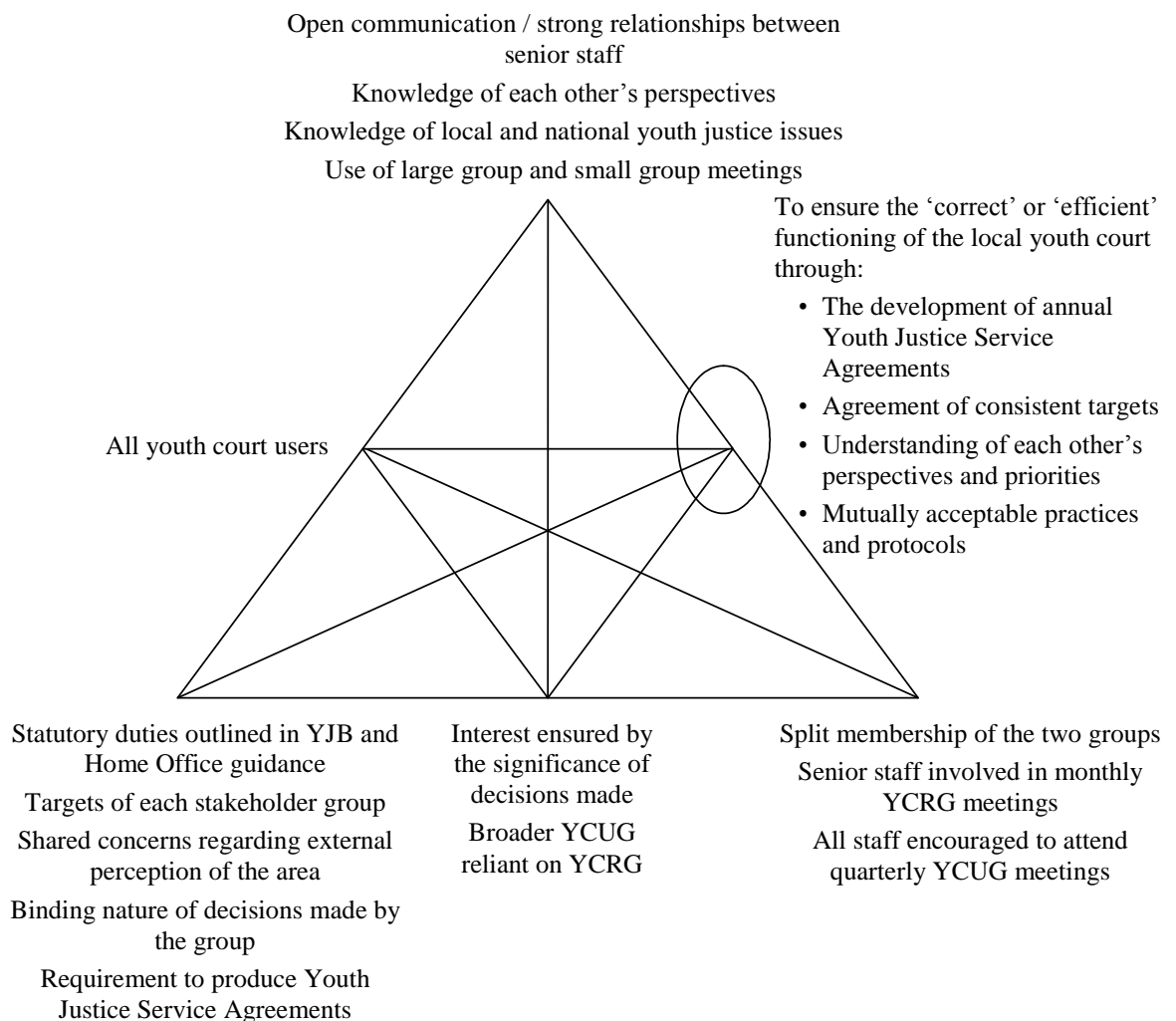
It is in the context of such changes and reforms that the discussion of the development of bail support and supervision must be understood. Figure 3.2 illustrated the combined influence of the youth court and its liaison groups on the development of the BSS scheme. It is clear however that the direct influence of such groups is in fact couched within far broader debates regarding the direction of youth justice services in the city. BSS, and indeed bail and remand decisions more broadly, must be

appreciated as just one of a number of processes occurring within the youth court, over which the liaison groups have an influence. Indeed, whilst such decisions operate to discernable processes and protocols as will be described, to all but the BSS team bail decisions are just a part of a far wider set of relationships, processes, aims and objectives. The various perspectives on BSS must in turn be understood in relation to these broader concerns. As in the previous chapter where BSS was considered within the developing YOT system, we must therefore understand the development of the scheme within this setting through an appreciation of the wider system in which it is embedded, and an understanding of the co-evolution as the YOT is influenced by, and in turn influences both liaison groups.

As with the development of the scheme within the YOT, we see BSS trying to be established in a challenging environment within which such an initiative is a low priority. However discussions of the change process being experienced within the youth court suggests a potentially receptive context. In particular the Demonstration Project (Allen et al, 2000), and resultant Home Office guidance (2001) stress the requirement for ‘close inter-agency co-operation’ and ‘a shared understanding of the underlying purpose’ of such changes. They also advise senior staff to ‘Consult all court users before making changes’ (Home Office, 2001). In particular it is recommended that: ‘Youth Court panels ensure that liaison with YOTs is a standing item on the agenda of panel meetings and that YOTs are invited to panel meetings to discuss the data and other issues of joint concern.’ (Home Office, 2001)

Within the locality under investigation the statutorily required liaison group is called the Youth Court Reference Group (YCRG), which includes representatives from the

bench, the YOT, the CPS, the small band of recurrent defence solicitors, court clerks and the police. This group is supported by, and reports to, a far larger Youth Court User Group (YCUG) to which all court users are invited, and encouraged to attend. It is in this setting that court users are kept informed of new initiatives and progress towards YJB targets, and invited to contribute to debates surrounding the various elements of the development of the Youth Justice Service Agreement. Figure 6.5 illustrates the activity of the youth court liaison groups as reported by those interviewed who attended regularly.



**Figure 6.5. The youth court liaison groups as an activity system**

Such a conceptualisation should however be viewed with caution given the limited opportunities for observation, and the potentially unrepresentative nature of the meetings I attended, given the purpose of my visits and the skew this might have placed on the agenda and discussions. Instead therefore my representation of the system is drawn principally from the descriptions provided by those interviewed.

Bearing these factors in mind, there was much evidence of shared objects within the liaison groups beyond the broad and all-encompassing central object of ensuring the functioning of the courtroom. Indeed my observations of both the Youth Court Reference Group and User Group suggest a common and shared agenda regarding the need for youth court reform, evidenced by the topics discussed and the nature of the debates (field notes recorded in observing YCUG, August 2002 to March 2004). At a surface level this is presented as a given stated aim of the group rather than as a shared object, coming across as a rehearsed, official statement of the group's corporate mission, reflecting the statutory duty that imposes rules onto the system, as opposed to actual activity. However, when questioned further, all of those involved in the Reference Group elicited well-defined, specific purposes for the group towards the ultimate ends of 'effectiveness' and 'efficiency', focusing on the need for 'mutual understanding' and 'knowledge of the aims and objectives of partner agencies' (quotes from various interviews with magistrates with membership of the YCRG, December 2003 to April 2004).

Such a representation still masks the intended outcome of such activity however. Whilst the formal necessity to operate such a group and the required output of an annual Youth Justice Service Agreement provide a firm basis for activity

(representing a rule as well as a shared object and subsequent tool), this in itself is not enough to have ensured the shared agenda that is purported by all to have emerged. Further enquiry revealed more explicit, immediate aims of the key participants. Given the complexity of youth justice provision and the multitude of competing perspectives that need to be unified in writing Youth Justice Agreements, the focus of the YCUG is seen to be necessarily restricted to 'the basic, broad issues that need agreement' (interview with senior YOT manager, December 2001). Indeed, even in the more detailed discussions of the YCRG the scope of issues that can be discussed is seen to be necessary restricted, both in terms of range and depth. Given this constraint, from the perspective of the YOT, the purpose of both groups is seen to be 'the agreement of the range of targets [the YOT] are working to' amongst other court users (interview with senior YOT manager, December 2001). As such the primary purpose of activity for the YOT is to seek the agreement of other court users to work towards, or at least be aware of these targets. The necessity for ensuring the empathy and understanding of the large number of magistrates who attend the Youth Court User Group is well understood, in order to promote the messages regarding particular interventions to those whose responsibility it is to carry out the required statutory role, or indeed who have the power to resist particular ideas of the team, on a daily basis (interview with Operational Manager, December 2001). The group is therefore perceived as an opportunity to 'iron out any differences' between the court user professional groups such that the objectives of the YOT are understood (interview with senior YOT manager, December 2001).

The efforts of the YOT management in working towards such agreement were seemingly very successful. The following quote from one senior magistrate and

member of YCRG (interviewed in January 2004) was typical of the understanding of, as well as agreement with the targets and objectives raised.

We are aware of [their targets], put it that way... We are singing from similar hymn sheets. The Youth Court Reference Group has been great in helping us understand each other's point of view.

This understanding can be seen to have developed through both professional and personal relationships. Through such official channels of communication understanding was seen to develop. A formal requirement to justify the basis on which the YOT is developing particular programmes, and thus an active involvement of other court users in questioning and debating such interventions, is seen as an important means by which to keep up to date with both local and national youth justice issues and influence their implementation. In particular it is through these forums that other court users are made aware of the legal and statutory requirements governing the activity of the YOT, as well as the research and practice evidence upon which (some such) activity is being based. Indeed all of the magistrates interviewed felt they had a strong understanding of the YOT processes, procedures, aims, objectives, and targets.

Observing and contributing to the meetings of the two liaison groups also demonstrated the importance placed on the figures produced by youth court records. In particular comparison to the output figures of youth courts operating in comparable cities can be seen to be a driver in altering performance. A debate provoked by a presentation by myself and the BSS team to the Youth Court User Group revealed concerns about external perceptions of the local area that 'unfavourable' statistics might provoke.

In addition the magistrates interviewed during the course of my research unanimously portrayed very good relationships between the Bench and YOT management, based upon the formal liaison through the Youth Court Reference Group. Those senior magistrates involved in the Reference Group portrayed 'good personal relationships' and even 'friendships' developed through such close working practices between senior representatives as an important element of the functioning of the youth court system:

You've got to have the human element. If not, you haven't got any liaison.  
(Interview with senior magistrate, December 2003)

#### **Asserting BSS through formal liaison**

Of specific relevance to the development of BSS are the range of targets related to the idealised objects of the policy, as presented in chapter 4. As described in that chapter the aim of reducing offending on bail is clearly shared by all, underpinning all official discourse and targets. It was also implicit in the discussions of all YCUG meetings I attended. The importance of the scheme is also stressed with regard to reducing delays in the youth justice process. The need to minimise the time between arrest and sentence is also seen as an issue to which the BSS scheme can be seen to address, particularly regarding persistent young offenders. Attendance at court is clearly a major factor within this, and thus the BSS scheme has a direct part to play in working towards these targets. Observations and interviews suggest this objective supports that of each of the court user groups, allowing for official targets to be met, ensuring the young person's experience of the youth court to be one of firmness and professionalism, and to minimise opportunities for offending whilst awaiting trial.

Such an application of the role of BSS is portrayed by senior YOT management portray as ‘a tactical attempt to highlight [the role of BSS] in ensuring the ... aims of the [court user] groups are realised’ (interview with senior YOT manager, December 2001). As such, the YOT management seek to react to the agenda of the other court users in order to develop support and a profile for the BSS scheme. In addition to promoting their own aims and concerns, the YOT management therefore also seek to understand those of their partner groups, so that they can be subsumed into the proposed and developing practice, thus minimising resistance and maximising success (interview with senior YOT manager, December 2001). Interviews and observations revealed two such additional concerns amongst members of the Youth Court User Group to which the YOT management argued the BSS scheme could contribute. Firstly, the ‘swift acquisition of important information’ (interview with magistrate with membership of YGRB, January 2004) was argued to be an important contributory role carried out by the YOT within the courtroom. YOT officers were seen as able to obtain reliable information quickly due to the nature of their relationship with the young person. Once more the principal concern might however be seen to be time, with access to such information seen as allowing for reports to be written quickly and work shared rather than duplicated. This is particularly true regarding persistent young offenders, and magistrate feedback to the YOT suggests a strong satisfaction with this element of the service as revealed by discussions in the YCUG as well as individual interviews. Secondly, and again linked principally to the objectives mentioned above, magistrates interviewed frequently showed concern for the lack of attendance of parents at court. YOT staff were seen as able to fulfil this



role in a way that would benefit all court users, establishing relationships with families and providing extra support for those that are finding it difficult to attend.

Each of these functions present the YOT workers within the courtroom as able to carry out a unique and valuable purpose, and thus to benefit other court users in undertaking their own specific work. It is on the basis of this perceived usefulness to the other court users that the processes and protocols to be followed by the BSS officer within the court room, and the subsequent interactions that take place with other court users, are negotiated within the YCRG. This includes an agreed process from arrest through to sentencing building on that produced by Moore and Smith (2001) as presented in figure 6.4. In addition to agreed processes between the police and YOT, within the court setting particular elements formally negotiated and agreed include: a morning phone call from the Sergeant in charge of the court cells, with subsequent access to all those held over night for appearance in court the next morning; the sharing of files between CPS and YOT representatives, with the expectation that defence solicitors will also be involved in such discussions; the completion of a Bail ASSET form in order to assess each young person for whom a bail decision is to be made, to be undertaken by the BSS team member sitting in court, therefore trained in its application; and, the clear stating of any objections to bail on the part of the bench in any decision to remand a young person into custody.

Of particular importance to the developing agenda and activity of the BSS scheme, however, was the negotiation of an agreement with regard to attempts to reduce the use of custodial remands. Whilst this was not explicitly an object of the YOT management at the outset of the scheme, the timescale of my research coincided with

the introduction of a further raft of performance measures introduced by the YJB in 2003 (YJB, website). One such measure related specifically to the use of custodial remands. 'Measure 4' required each YOT to seek to 'Reduce the number of remands to the secure estate (as a proportion of all remand episodes excluding conditional/unconditional bail) to 30% by December 2004.' (YJB, website) Those magistrates interviewed were unanimously quick to highlight the aim of reducing remands into custody wherever possible. Magistrates commonly presented themselves and indeed their colleagues as attempting to avoid all unnecessary custodial remands.

None of us like to lock young people up, particularly when they are awaiting trial and we don't know if they're guilty or innocent. (Interview with senior magistrate, February 2004)

Indeed magistrates described trying 'every exercise' to look for a way of disposing of a young person as to avoid custody unless it was 'absolutely necessary', interestingly described by one magistrate as 'their own fault'. Once again when questioned as to why such a focus, the perception of the city was a common reason. Historically the city has been known for having comparatively high remand figures for the population served, and thus some pride was evident in attempts to reduce that percentage. All members of the YCRG, and indeed those who attended YCUG meetings, were made aware of the poor recent figures in relation to 'Measure 4'. Figures for the calendar year 2001 revealed 49.2% of all remand episodes were to the secure estate. Even more 'disconcerting' (field note from YCRG meeting, December 2003), the figures for 2002 showed an increase to 60.6% of all such remand episodes.

In addition, however, there was also evidence of anti-custodial ethos. Some of those interviewed revealed an explicit belief that a period in custody may in fact be detrimental to the prevention of future offending.

We are just taking a risk in locking people away and the effect it has on them.  
(Interview with senior magistrate, February 2004)

The last thing I want to do is send them to prison as they're only going to learn more of a trade there than they would do on a work experience course!  
(Interview with senior magistrate, January 2004)

The agendas or perspectives of the key youth court user groups therefore appear much in accord, setting a potential agenda for the BSS scheme to address within the courtroom. Negotiations within this setting therefore appear to have equated the potentially disparate aims of participants in arriving at statements of intent with regard to the aims of youth court operation, including those relating to the intended reduction of the use of custodial remands. It remains unclear however how this abstract common understanding maps on to the decisions and perspectives of individual magistrates, and more precisely how it impacts on or is conscious within individual decisions made.

Despite such attention to the agreement of targets and broad aims there was very little associated discussion of the means by which such aims should be achieved during the meetings I attended. That is, in the discussions of the youth court liaison groups the emphasis is very heavily on the setting of targets there is little activity towards the development of practices or protocols with a ready and immediate impact on the workings of the youth court.

This was evident in the discussions of ‘proposed actions to achieve progress towards’ Measure 4 (field note from YCRG meeting, December 2003). In presenting to the YCRG, the Operational Manager with responsibility for pre-trial services outlined several means by which this target might be achieved, as evidenced by my field notes recorded during the meeting.

- Focus resources on ‘those prolific young offenders who are at risk of imprisonment’.
- Ensure that all young people appearing before court who are at risk of being remanded into custody are subject to an assessment.
- Ensure all the relevant groups and individuals are ‘aware of the current levels of use of custody’ and are ‘utilising ASSET for those young offenders who are at risk of custody’.
- Establish ‘a numerical not a percentage target’ for custody figures on a month to month basis by April 2003.
- Continue to inform the magistrates of custody/ISSP Bail/BSS figures during regular Court User & Reference Group meetings.

(Field notes from YCRG meeting, December 2003. Quotes from Operational Manager in inverted commas)

The focus of each of these ‘proposed actions’ was on awareness of the issues in relation to the target as opposed to the means by which it might be reduced. Whilst the use of assessment techniques was highlighted, this is not balanced by an equivalent agreement with other court users as to the outcome or use of these assessments in decision-making. Similar treatment was also given to the Bail ASSET during the discussion following my presentation to the YCUG (August 2001). This assessment form was introduced to the bench in the initial training session, as

confirmed by two interviewees who remembered the session. At this YCUG meeting the form was re-introduced but not debated. As such, there was little scope for questioning either the BSS staff or those magistrates present as to its application to decision-making processes.

The impact of youth court liaison group activity on the practice of the courtroom was also restricted by the limited involvement of court users in these groups. Indeed significant proportions of magistrates are known not to attend either group. The importance of such an active involvement and therefore understanding of what is developing around youth justice was vehemently argued by one senior magistrate.

I am disgusted with some of my rank and file for not [attending meetings] or doing the job justice. How can you drive the car if you've never had a lesson? It's too important not to... other qualifications don't make you qualified for this job. (Interviewed January 2004)

Whilst understanding the pressures on her colleagues in having 'other jobs and busy lives', this was not seen as an excuse for not attending meetings. Indeed it was a common concern amongst the senior magistrates interviewed that their colleagues were not all suitably engaged in such liaison in order to understand the targets of the YOT, and their implication for youth justice services. Without a common understanding throughout the bench it was held that the 'successful development of schemes into everyday practice' would be hindered (senior magistrate, interviewed January 2004). As well as implying that several magistrates would be unaware of the YOT aims and priorities, such meetings were also seen to provide for the direct input of larger proportions of magistrates than 'other fringe meetings' to the practice of the

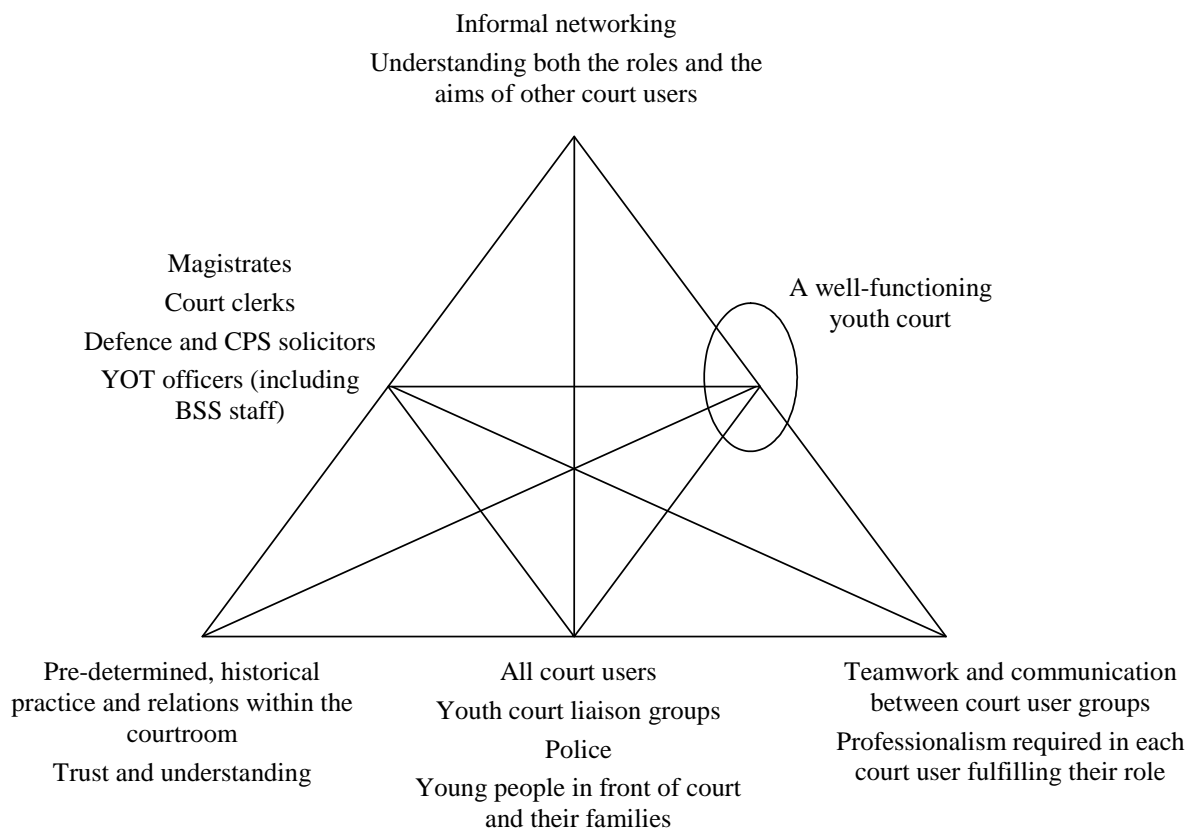
YOT. As such, the concerns and priorities of the bench were also felt to not be adequately heard by senior YOT in informing the direction of practice.

Whilst those magistrates interviewed commonly stated that they had no wish to place any young person under custodial remand this must be taken to be an abstract representation of intent. Such abstract agreement is not easily translated into the day-to-day and case-by-case functioning of the youth court with activity in the courtroom not easily manipulated from the liaison groups set up to define and govern its operation. Whilst the role of the YOT management in liaison at a formal level is effective in its intended aims, its impact on the daily interactions of the youth court is therefore questionable. Despite the obvious importance of ensuring individual cases are resolved accordingly in order to obtain the desired aggregated outcomes this is not adequately addressed by the youth court liaison groups. Although the aims of the scheme might not be contested its specific application is not agreed in this setting and is thus subject to other influences that come into play in the youth court.

### **Negotiating the function of BSS within an established court setting**

The remainder of this chapter therefore explores the degree to which such formally agreed notions and targets impact upon the activity of the youth court. It also considers the subsequent impact on the way in which BSS is perceived, and more importantly used. As should be expected when the rules and tools created elsewhere are utilised within another setting, we will see that tensions and contradictions are realised or surfaced. The youth court users can be seen to have challenged and re-negotiated these procedures through day-to-day practice in order to resolve and accommodate any such conflict. We therefore find a complex system self-regulating

in order to legitimise new elements, and as a result shifting towards a consensus regarding the function and operation of the BSS scheme within the youth court setting. It is therefore in the day to day interactions and working relations that the role and functioning of the scheme is developed and the basis for working practices defined. Thus it is in the boundary processes, developed and negotiated in daily activity, through which an understanding of the scheme and an appreciation of what it might offer is developed and realised.



**Figure 6.6. Ideal representation of youth court activity**

An abstract and idealised representation of the youth court as an activity system, developed from the interviews and observations carried out in the youth court setting, is portrayed in figure 6.6. This representation of the system forms the structure of the

following section, as I explain the various stages by which the team attempted to establish themselves within the boundary zone, with the eventual aim of influencing youth court activity towards the object of the central BSS activity system. As with the functioning of the youth court liaison groups, this is a simplified representation. However, the basic depiction illustrates the general ideal object described in relation to the activity of the youth court as a boundary zone: the development of a 'well-functioning court'. This object will be seen to reveal varied interpretations, expressed through the equally disputed terms of 'teamwork and communication' between subject groups and 'professionalism' within each group, which together constitute the desired division of labour within the system. As such, the development of 'teamwork and communication' and 'professionalism' represent the two transitory objects of the boundary zone. Activity towards these objects is described in turn below.

Before activity towards the object of the BSS team might be realised the team were therefore required to secure acceptance within the setting by contributing effectively towards these boundary objects. In such an endeavour the agenda of the BSS team was not easily addressed. Instead the team are forced to be reactive to the context and setting rather than proactive in changing it to meet the requirements of the scheme. Each of the subjective terms constituting the transitory objects were defined by others in the setting, based upon pre-determined, historical practice and relations within the courtroom. This impacted upon the means by which the team were able to fulfil the role they intended, instead forced to be reactive to the activity of the boundary zone, controlled primarily by other subjects within the boundary system



Through interviews and observation much evidence emerged of informal networking taking place prior to the court hearing, in which the basis or boundaries for the formal interplay within the court setting are established. Shadowing the YOT officers within the courtroom I was privy to conversations prior to the start of a court session. Every morning a court meeting is held at which bail objections are raised and CPS papers made available to the YOT court officers, providing all the necessary information on the case without delay. During these meetings solicitors commonly discussed the day's cases and negotiated which would be contested and on what basis. The particular context of this local area is seen by the YOT staff to have been conducive to the successful development of such working practices. Within the case study site only one youth court operates.

This court is served by a team of prosecutors, clerks and court officers dedicated purely to youth cases... a small number of specialist defence solicitors represent most young people [appearing before the court]. (Interview with Bail Coordinator, December 2000)

This created a 'close knit' team, with strong communication, good informal working relations, and thus the basis for the establishment of trust and understanding of each other's aims and objectives.

The magistrates interviewed verified the perceptions of the YOT officers in portraying the good communication between the various actors within the youth court. In particular it was commonly stated that each participating group were aware of and understood the aims and objectives of their peers within the setting. The strength of these relationships was enthusiastically articulated by one magistrate who twice presented the range of professionals involved in the youth court as a 'team'.

I think I have a good repertoire with all of them. I think it's nice because... it isn't teamwork but that's the way it's going. When you go into that courtroom we are all working as a team...

I know it's not [supposed to be] teamwork but it is! It's a gentleman's agreement!

(Interview with magistrate during observation of youth court (not a member of YCRG), January 2004)

This assessment was repeated by another magistrate who presented this working arrangement as crucial to the functioning of the court.

It seems to me that that's the main strength of the Youth Court: that the whole team are working in the same direction, sharing information, making files available. Teamwork, yes. It works well. Without it there would be far more delays and putting off of cases whilst work was done. So it prevents a lot of inefficiency. (Interview with senior magistrate, March 2004)

Indeed common to all interviews was the idea that each set of subjects gained by all 'pulling in the same direction'. The perceptions as to the actual benefits of this teamwork seem to differ however. For example, a benefit of such 'teamwork' and 'communication' commonly noted amongst magistrates, as illustrated by the quote above, is the reduction in time delays. This is seen to occur in several ways. In particular any potential antagonism between the two sets of solicitors is seen as being minimised by an openly communicative relationship that ensures that information is shared, and objections to bail raised prior to the court appearance. Whilst counter arguments are clearly still made in reaching bail decisions, it was argued by all the magistrates interviewed that this was minimised by the benefits associated with the

maintenance of good working relationships, allowing for informal pre-appearance discussions and negotiations and thus the ‘speedy resolution of non-contentious cases’. This was also presented as due to broader established and understood aims of each partner group beyond the individual case.

Again it goes back to [the Youth] Court Users Group [sic]. We get responsible officers from all the areas and listen to each other and understand each other’s problems. (Interview with magistrate during observation of youth court (not a member of YCRG), March 2004)

In addition to a general discussion as to the nature and benefit of teamwork, the contribution made by each particular subject within the setting is also recognised, with the importance of ‘professionalism’ in fulfilling that role seen as key. From the perspective of the bench, a common motivation for ensuring a well functioning court was seen to be the need to maintain ‘discipline’ and ‘respect’ amongst those children appearing before them. ‘Professionalism’ amongst the YOT staff therefore equated to ‘timeliness’, a lack of unnecessary delays, and being able to ‘answer all questions [from magistrates] appropriately’, all of which are seen as key in creating the right environment for the young people within the court, and as the basis for any subsequent programmes of intervention (quotes taken from various interviews with magistrates, December 2003 – March 2004). One repeated example of bad practice affecting the relationship between the court and the young person was when paperwork was ‘missing’ or not available when needed, often leading to the adjournment of the court hearing:

...you can see the kids going: “Ha ha ha,” and you’re thinking: “this is so unprofessional.” (Interview with senior magistrate, January 2004)

With such adjournment comes an increased likelihood of future non-attendance, fuelled by an image of the court session as 'ineffective' or even 'pointless': 'the kid's not there because the wagon's got stuck' (Interview with senior magistrate, January 2004).

In the interviews with magistrates there was a general perception that YOT officers were successfully fulfilling their role within the youth court. The appreciation of the professionalism of the YOT workers was particularly strongly articulated by one magistrate.

I can't speak highly enough of them [the YOT staff]. They are always there in the court. The information is always there. The key people working with a young person are always able to have an input [in the court]. We are able to question workers in court about what a programme would mean and what might be achieved. (Interview with senior magistrate, January 2004)

The positive relationships evident at a management level were therefore clearly also present at a court level. The understanding amongst other court users of the procedures and assessments undertaken by the YOT worker engendered trust that they had access to the correct information on a young person's history. The fulfilment of that role on a daily basis within the youth court subsequently cemented a confidence in the individual practitioners. YOT representatives were thought to be particularly useful was in the obtaining of relevant and reliable information from a young person, in order that the magistrates might better understand the character of the defendant as well as the context of the case. This was seen to be of particular importance when a young person 'comes across poorly' within the court environment.

I think presentation in court is a difficult one. It's a desperately formal arrangement and the kids who appear before you are not the most articulate in the world, and might be very nervous. It's very difficult not to take this into account. You get the odd middle class kid who's done something stupid, who turns up in his school uniform with both parents suited up. And that's how you like to see them, and so it's difficult not to take that into account.

(Interview with senior magistrate, January 2004)

This discussion came about following a particular case observed on one of my visits to the youth court. Whilst not relating to a bail decision it revealed the usefulness of the YOT officers to the bench and was said to be typical of how the team might be utilised within bail hearings also. The case involved a 15 year old boy who had repeatedly verbally abused a police officer who patrolled his estate. The boy presented very badly in court, being told he was dressed too casually and repeatedly asked to take his hands out of his pockets, stand up straight or look at the magistrates as they addressed him. In replying to the magistrates' questions he gave very brief responses, and was thus perceived to be uncooperative. During my interview after the court session the magistrate chairing the bench revealed that together the details of the case and the manner of presentation might have led him to conclude that the boy was impenitent. However following a request for a stand down report (a scaled down version of a Pre-Sentence Report produced by the court officer during the court session), the YOT officer thought the behaviour to be out of character, reporting the boy to be friendly and affable, and willing (and therefore likely) to comply with any order he was given. This led to the recommendation of a basic reparation package which was taken on by the magistrates despite earlier indications of a more severe punishment. The magistrate argued that the time that the YOT officer was able to spend with the young person, given their professional experience, enabled any façade

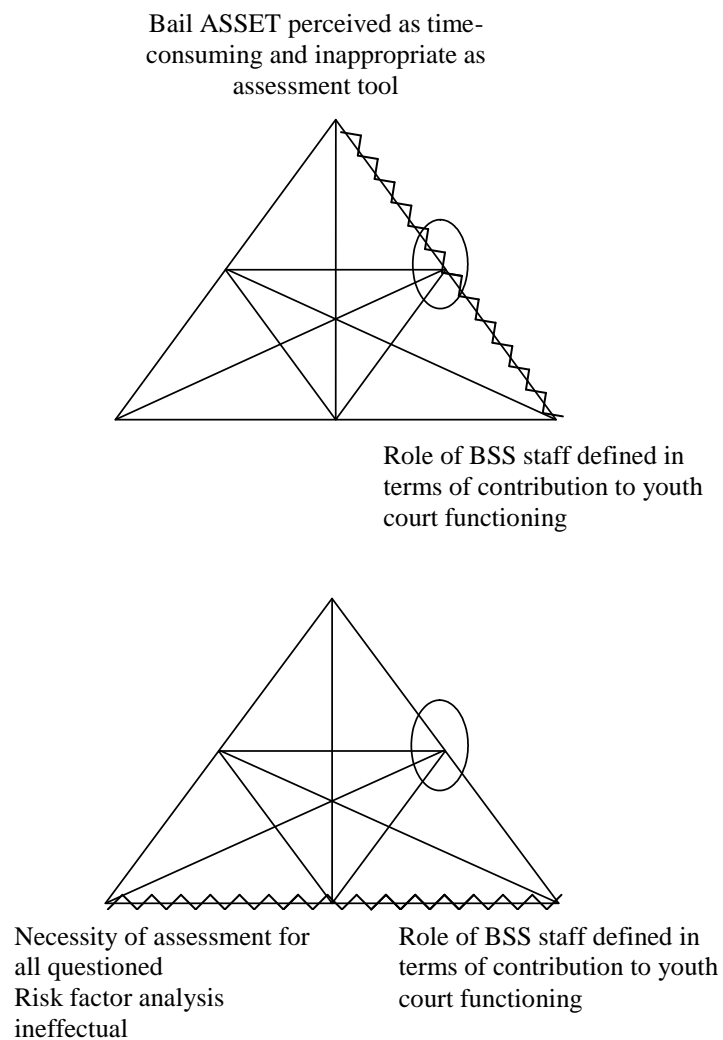
to be seen through and a more accurate understanding of the young person ascertained.

### **Contradictory activity: the rejection of BSS approaches**

Representations of the effectiveness and value (whether positive or negative) of the bail worker within the court room do, however, tend to focus on their effectiveness in supporting the magistrate in reaching an appropriate decision, and thus as serving the purposes of other court users rather than working towards their own. That is, the perception of the bail worker is one of a functional facilitator of the process, carrying out a useful and practical purpose for the general good of the court, as opposed to an actor within the system, bringing with them an aim or objective of their own, and capable of influencing the decision-making process. As such, the particular purpose of the BSS scheme is not always apparent in discussions of the role of the bail worker within the setting.

The division of labour within the boundary zone developed such that the BSS representatives are unable to work towards their own particular object. The following discussion begins to explore the impact of this division of labour on the operation of the boundary zone, and in particular in the secondary contradiction illustrated by Figure 6.7. Through the subjugation of the BSS representative, inherent in the construction of their 'professional' role, a contradiction emerged between the division of labour and the 'tools' or artefacts available to the subject, and similarly between the division of labour and the 'rules' by which BSS should operate, as defined by the YJB. Thus the construction of the division of labour within the boundary zone will be seen to have challenged the appropriateness of the 'tools' and 'rules' brought into the

boundary zone by the BSS representatives. Through consideration of the processes of decision-making described by magistrates, I argue BSS staff reacted by reconceptualising their own actions and operations in order to overcome these apparent contradictions, remaining within the negotiated rules of the boundary zone whilst maintaining a focus on their own central object of activity within the BSS system.



**Figure 6.7. Secondary contradictions emergent in youth court activity**

When first instigated the statutory requirements of the BSS scheme brought with it a rigid set of processes to be followed. The extent to which such inflexible procedures were adhered to is put into doubt by the following quotes.

There is supposed to be a sort of a set “good scheme” to go through various aspects of decision making in terms of both bail and sentencing but whether one does that is entirely unknown. It varies so much. (Interview with senior magistrate, February 2004)

I think decision-making is a bit of a gut reaction and anyone who says you go through this magnificent scheme that the Judicial Studies Board has produced for decision-making, well... I don't think you do. You've heard what's been said. Ok, the prosecution have said that because of these points the young person should be in custody, and I guess it then depends on how inclined you are to grant bail. (Interview with senior magistrate, January 2004)

This is a lucid articulation of a much more extensive set of concerns. Whilst not admitting to breaking any rules, to varying degrees each magistrate discusses ‘informal’ methods of reaching decisions drawing upon what is variably termed by magistrates as ‘common-sense’ or ‘intuition’.

One magistrate termed such flexibility of process as both ‘logical’ and ‘fair’ by allowing for the context of the case to guide decision- making.

...you've got to put the human element into it as well, as well as what you've been instructed to do. (Interview with senior magistrate, December 2003)

In particular for the more senior or experienced magistrates this scheme was viewed as a repetition of past working arrangements or aims, and therefore as ‘ultimately nothing new’; ‘one of the sort of schemes that come and go’ without ultimately



affecting the overall functioning or mentality of the court (interview with senior magistrate, February 2004). Such new schemes are, when first instigated, seen to create new procedures and paperwork that are ‘religiously’ followed. However, once the purposes of the scheme become established and understood, it was argued that the formality and rigidity of working processes are relaxed, to the extent that ‘these things become rotten at the core and people don’t bother so much’, relying instead on old ways of working, with new initiatives and procedures ‘not ignored but not taken as seriously as they should be’ (quotes taken from various interviews with magistrates). Thus magistrates commonly admitted to circumventing ‘bureaucratic rules’. For example, one magistrate said:

I suppose I’ve been up there long enough to make up most of the announcements and I do them when I’m chairing a bench without paying too much attention to all the paperwork. (Interview with senior magistrate, January 2004)

As such, the procedures and practices imposed on the court for such cases are contested. In reaction we observe the reaffirmation of the autonomy of the bench, and their easy assimilation of new procedures into long-established ways of working. In this blasé depiction of magistrate decision-making procedures, we observe the relative power of the two groups of professionals operating within the boundary zone. This is explicit in the rejection of advised BSS procedure, but also implicit in the subsequent construction of the role and function, and thus the expression of the ‘professionalism’ expected of the BSS staff within the youth court. As we shall see in the unfolding narrative of the following sections this was not resisted by the BSS staff or YOT management. Instead the YOT representatives in the setting engaged with the common boundary object as a priority over that of the central system. Indeed far from

being resisted such a positioning of the team is utilised to encourage assimilation and integration of the BSS scheme into the long established working practices and decision-making processes. As such, when confronted with the above quote, rather than perceiving a challenge to the scheme, the Bail Coordinator was 'heartened' by the idea that BSS procedures had been 'developed' such that they could be 'absorbed into the court's workings' allowing BSS to operate and influence decisions 'from within' rather than 'battling from the sidelines'. This was (rather philosophically) presented by the Bail Coordinator as an attempt to ensure BSS 'enters the subconsciousness [of youth court users] rather than being in a constant battle to stay in the conscious', and thus as a deliberate long-term strategy in working towards the advancement of the central object (quote from the Bail Coordinator recorded in field note from visit to YOT, March 2004).

Such a strategy was seen to require flexibility and negotiation within the youth court setting, so as to develop working practices appropriate to daily interactions. An obvious example of the willingness of the BSS team to bend if not ignore their own YJB-prescribed 'rules' and 'tools' of operation comes in the reaction to criticism of the formalised nature of the decision making process and the unnecessary time taken up by assessments where decisions were seen to be uncontested, 'obvious' or 'common sense'. This is reflected in the monitoring of the work of the bail team in the courtroom. In the early stages of the scheme a Bail ASSET assessment form is completed for every case (with a 100% completion for all referrals in the first 9 months of the scheme's operation). In the final three quarters for which the monitoring data was collected, the percentage of completion drops to 81.25%. Almost one in every five referrals were no longer assessed. Whilst there is no

statutory obligation to use Bail ASSET in assessments, these figures suggest that comparable cases are no longer being assessed with such rigour. When questioned, bail workers admitted that this practice resulted from what they labelled ‘additional pressures’ on them during the working day, based on demands on the YOT workers amongst other court users as to the availability of their assessments. There was an expectation that the youth workers would keep to the timetable as decided by the court clerk and solicitors, in terms of the order of the day’s cases. Thus information for a particular young person had to be available when a particular case was called, guiding the order in which assessments are carried out.

There was further criticism in relation to the use of Bail ASSET in terms of its ability to offer a suitable understanding of the case. The form was seen to have limited appeal to the magistrates as a means of assessing the factors contributing to the alleged offending behaviour. It was felt to be an over simplified and formulaic method, commonly portrayed as a ‘tick-box’ exercise.

Those ticks mean absolutely nothing to me. I know these days everyone’s obsessed with stats, and I realise they’ve got to do that, but I judge it on what I see and hear, not on what I read on that piece of paper. That is just a guideline. (Interview with senior magistrate, January 2001)

Whilst the ‘tool’ prescribed to the BSS worker might be criticised, the ‘rules’ contained within it by which the BSS team members make decisions are generally agreed upon. Such criticism suggests the limited influence of the BSS team assessments on magistrate thinking. However on further investigation it is clear that a shared language exists focusing on common issues of concern. Thus, despite this criticism, the factors seen to be contributing to offending issues as commented on by

the magistrates I interviewed were very similar to those that form the basis of the Bail ASSET assessment, with family, education, drugs, and unemployment all frequently mentioned. The simple identification of ‘risk’ factors likely to be linked to offending behaviour is instead seen to be supplanted by what is perceived by magistrates to be a more ‘individual child-based’ understanding, based on a magistrate judgement of whether the young person is likely to ‘gain’ from a certain intervention. Magistrates commonly purported to see ‘the child rather than the offence’ in understanding the factors contributing to offending behaviour.

In the rejection of the formal basis upon which the BSS staff are intended to communicate their professional judgement, the risk management agenda imposed upon the YOT, and by association the youth court, is itself rejected. The means by which the BSS team are intended to influence decision-making is therefore challenged and impeded. Instead the magistrates seek to retain control over the decision-making process. It is on this basis that the magistrate argued the need to ask additional questions of the young people themselves, beyond those already asked by the YOT representative, in order to ascertain extra information not forthcoming from other parties who were seen to perform predictable and scripted roles. Magistrates shared an opinion regarding the strategies adopted by solicitors on both sides of the courtroom.

Defence Solicitors will always argue for bail and CPS will often argue for remand when it is unnecessary... Sometimes we have to take it with a pinch of salt. (Interview with senior magistrate, February 2004)

Similarly another interviewee said that ‘Solicitors are sometimes tongue in cheek anyway’ requesting things that they know will not be given (Interview with senior magistrate, December 2003). The magistrate is then presented as listening to both

sides whilst being ‘not easily swayed’, instead basing a judgement on the particulars of the individual case. This process was best described in the following quote:

We hear any opposition to bail from the Crown Prosecution Service, listening in depth to anything they have to say, taking into account offending history, particularly on bail, and the nature of the offence, and [they] may ... not be happy with allowing bail. Then we hear ... their solicitor’s account as to why they need bail, and you can take two completely different comparisons and take a little from each. And then, at the end, I suppose we have to satisfy ourselves: are we taking a risk by giving this young person freedom? Do we honestly believe that he’s not going to commit a further offence whilst he’s on bail before his next hearing? Because the wording is that there are ‘substantial reasons’ for us to believe that given bail he would either fail bail or commit further offences. (Interview with senior magistrate, January 2004)

This suggests that the central question asked by magistrates when deciding on a bail package was whether the young person will commit a further offence or in some other way breach bail. This is backed up by other magistrates.

[Any bail package] has to be enough to satisfy us that they are going to answer to their bail and are not going to commit further offences whilst on bail, because this is what its all about really. If there is any fear that they are going to commit further offences whilst on bail, and we have substantial reasons why they are likely to commit offences then we should probably think about withholding bail completely. (Interview with senior magistrate, February 2004)

In addition the majority of magistrates made reference to ‘the severity of the offence’ and ensuring attendance at future court hearings as secondary, yet also important factors in deciding an appropriate package. Thus the decision to grant bail, and the

specific conditions attached to the package, are such as to satisfy the bench that their concerns will be met.

If we consider that this person, depending on their record, has previously offended while on bail and is at risk of committing further offences whilst pending other court hearings then we need to address that by whatever way. So to guarantee that they'll come before the court we attach these conditions. (Interview with senior magistrate, March 2004)

Replacing the list of factors contained within the Bail ASSET form, therefore, is a list of 'headline issues of concern' (Interview with senior magistrate, January 2004), based upon the reasons for possible refusal of bail, as opposed to the potential causes of offending identified in the risk factor approach. Specific conditions are subsequently requested in order to address the specific concerns that the magistrates or CPS might raise. Examples given within interviews included: a requirement to report to a police station at 'important times' when offending is seen as most likely to occur, to ensure their movements and whereabouts are known; restrictions as to association with named individuals and exclusion from certain 'zones', to limit contact with particular peer groups or access to places where offending is common; and constraint of contact with the alleged victim of an offence, again through exclusion zones or direct restraints. Each of these examples focuses on supervision and surveillance, over the discussion of support as described by Bail ASSET assessments. The last of these examples illustrates a further concern 'that they're not going to commit offences towards the victim pending trial cases coming to court', commonly said to have been taken into account by those interviewed in making bail and remand decisions. This was rather expressively conveyed by one of the magistrate's interviewed.

...you have an obligation to the law abiding old codgers, who live in old codgers' homes and don't want these yobs beating shit out of the windows and bashing things up, and covering them in graffiti and so on. You read it in the evening papers, and you see these old people oppressed by youths and you think it's terrible. (Interview with senior magistrate, January 2004)

In contrast however an empathy with the circumstances of the young person was also regularly expressed. In particular this was articulated as a desire to support the young person as opposed to punish them, as provided by this clear (if theatrical) articulation of this empathy.

The young people that you see haven't had the best of lives. Some of the cynics will say that there are a lot young people from broken homes who don't commit crimes, and that is of course true, but you only have to see some of the parents who come into court with them - the grey, downtrodden mum who's trying very hard to look after the kids, and a father who beats shit out of them most of the time, and you only have to compare that with your own middle class environment and you say what chance is there. (Interview with senior magistrate, January 2004)

It is through their response to these emergent "headline" concerns and the associated rejection of the risk assessment model that the BSS team reconceptualised their approaches to the delivery of the scheme. The following chapter describes this transformation in activity within the youth court and in the nature of conditions and interventions made available to the court. This change will be argued to impact on the object of the activity of the team in relation to both individual cases and the system as a whole.

### **Contradictory approaches and contradictory outcomes**

This chapter has placed the development of the BSS scheme within its daily interactions with a variety of external stakeholders and systems within the youth court setting. In doing so it has illustrated how the focus and objectives of the scheme are necessarily shifted in order to placate, appease or embrace the perspectives and aims of those with whom they need to interact. I have argued that the development of the BSS scheme in the youth court setting occurred, in parallel, through the formal relationships of the youth court liaison groups and the development of working practices within the youth court. The liaison groups were seen to establish common targets, and therefore a shared commitment to using BSS as a means to prevent offending on bail and to reduce the use of custody at the remand stage. I then argued the limitations of such formal liaison in application to daily activity and presented a subsequent development of informal liaison by which processes are negotiated, altered and agreed within the courtroom.

In this paralleled development I presented the division of labour within the BSS team to have resulted in the activity in the different boundary settings becoming divided, both in terms of role and, more pertinently, intent. YOT management concentrated on seeking the agreement of other court user groups as to the idealised object of reducing the use of custody in remand decisions. Negotiations within the liaison groups therefore equated the potentially disparate aims of participants in arriving at statements of intent with regard to the aims of youth court operation. There was, however, little evidence of activity towards establishing the rules and tools by which court decisions might be made towards this ends. Thus the focus of the youth court liaison groups was found to be confined to the desired aggregate outcomes.



Although the perspective of the senior YOT management was strongly represented in the formalised youth court liaison groups, this was argued to have little direct bearing on the decisions made in relation on a day-by-day and case-by-case basis. The impact of these negotiations upon decision-making for particular cases is therefore unclear, particularly when set against the discussion of the magistrates about taking every case on its individual merits. Despite a commitment to reduce custodial remands, the overriding object of the magistrate in relation to a particular case is less tangible, premised on a need to make the “correct decision”. Whilst those magistrates interviewed commonly stated that they had no wish to place any young person under custodial remand this was taken to be an abstract representation of intent. Although the aims of the scheme might not be contested its specific application is not agreed in this setting, and is thus subject to other influences that come into play in the youth court.

An exploration of the material activity of youth court decision-making showed the importance of informal working relations, developed in order to meet the practical and functional needs emerging in the development of practice through daily interactions. In this setting the loosely constructed, idealised central object driving reform was the desire for a ‘well functioning court’. As is clear from the depiction above this activity system was truly multivoiced, based upon a subjective object that inevitably gave rise to a contested division of labour, as each member of the court expected a particular function to be carried out by each of the other professionals and subject groups within the setting. In relation to the role of the BSS representatives this was manifest in an expectation of timely and accurate information, primarily as a contribution to

minimise delays and thus reduce the time from arrest to sentence, but also to present a proficient court to the young person awaiting trial.

However, the fulfilment of such a role impacted on the 'rules' and 'tools' brought into the setting by the team as they attempt to fulfil their own central object in relation to bail and remand decisions. In particular the means of assessment, and thus the basis for communication between the team and the bench, was called into question, criticised for its overemphasis on the identification of particular risk factors at the expense of a (perceived) 'holistic' understanding of the child. The language and structure of the assessment of the Bail ASSET, and the associated language of risk assessment, is not perceived to be a useful means by which to consider cases. The professionalism and expertise of the BSS staff assessment is therefore challenged. Instead magistrate decision-making was argued to be based upon broad issues of concern, presented in bold 'headline' terms around offending on bail, the seriousness of the offence, attendance at court and protection of the alleged victim.

The discussion of the youth court processes, and the emergent contradictions between the rules and tools brought into the setting by the BSS team, suggests the potential of the interactions in the youth court liaison groups to have prevented such a tension. Had negotiations sought to establish the formal basis of BSS team input and function in the courtroom, it is possible that the contradictions that inhibit the development of the scheme might have been avoided. Whilst the importance of the development of activity in the youth court setting would not have been diminished, the basis upon which negotiation took place might have been more favourable.

In the circumstances that developed, the agenda of the BSS team was not easily advanced, and therefore limited in its impact on the predetermined, historical and hierarchical relations of the courtroom. Instead the team were forced to be reactive to the context and setting, rather than proactive in changing it to meet the requirements of the scheme. It is only by addressing the concerns of others that the team were able to work towards their own aims and objectives. In order to position themselves as able to work towards their own object of activity, the team first needed to attend to the transitory object of seeking legitimacy, trust, and the valuing of their professionalism. This in turn is achieved by being a respected and useful member of the youth court team, carrying out their assigned role professionally and satisfactorily, as negotiated with other actors within the setting, and ensuring the perception that the role carried out by the BSS team representative contributes to the suitable functioning of the youth court. Attempts to develop their legitimacy through a trust in their work were, therefore, described in terms of the fulfilment of a role principally defined by others. Definitions of 'professionalism' were derived so as to be aligned with the fulfilment of a role that meets the requirements and concerns of the bench, principally through the acquisition of reliable information and efforts to ensure the young person attends court hearings.

The following chapter will argue that this lead to substantial changes to activity amongst the BSS team. Quaternary contradictions will be argued to have emerged in relation to the particular tools and the rules applied by the team in youth court actions and operations. As a result we will see changes to the basis upon which assessments are undertaken and presented to the court, and to the components of provision offered in attempts to secure the bail status of particular cases. In short, I will argue that there

is a shift away from professional judgement to magistrate appeasement. Such a shift in strategy will be argued to impact on the object of the activity of the team in relation to both individual cases and the system as a whole, and thus on both the material and the ideal.

## **Chapter 7. Towards expansive transformation: the emergence of new activity to resolve quaternary contradictions**

The previous two chapters have attempted to show the context in which the Bail Support and Supervision scheme has developed within the research site. In turn, this chapter restores the focus to the central activity system, by exploring the impact on the strategy adopted by the BSS team and YOT management in reaction to developing understandings of their environment. In order to do so, the discussion focuses on the tensions emerging within the central system as a result of its interactions with neighbouring systems. In short, therefore, this chapter seeks to explore the development of activity within the central activity system given the complicated and conflicting context in which it is forced to operate.

The following discussion begins by exploring the changing strategies of assessment, presentation and provision adopted by the BSS team in an attempt to shift magistrate thinking as to the role and function of the scheme. I will argue that the quaternary contradictions that emerged in activity in the boundary zones, impacted upon the central activity of BSS, as the team were forced to address the concerns of the youth court as well as the requirements of central government. As suggested by the discussion of the previous chapter, two such quaternary contradictions emerged.

Firstly the concerns of the bench as to the nature of the assessments carried out by the team produced a contradiction in the ‘tools’ employed within the central system.

Secondly, discussions as to the necessary focus of the assessments produced a tension in the rules by which the team operated, presented as a desire for the team to address the ‘headline’ issues of concern to the bench.

In addition I draw upon a series of new components of possible intervention produced by the Youth Justice Board in the ever-changing youth justice provision that can variably be seen to be rule-altering and tool-producing with regard to the central system. I describe the significant changes to the support provided by the team, brought about by the introduction of Bail ISSP, electronic monitoring and voice verification technology. I argue that these new elements are assimilated into the operation of the scheme as a means to react to the tensions and contradictions emergent from activity in the boundary zones of the youth court and its liaison groups. In particular such components will be seen to be utilised in response to the desire for more supervisory BSS packages.

This shift in strategy will be described and evidenced both in the monitoring data collected by the local team in reporting to the BSPDU, and in consideration of the various changes to BSS activity. In particular, a notable and clear shift in the criteria for assessment as suitable for BSS will be presented, designed to utilise the imposition of higher end supervisory conditions in changing the perception of the scheme to one that is in place to deal with more serious offenders and in particular those at risk of custodial remand. Changes to the nature of presentation will also be portrayed, argued to be an attempt to align the assessments of the team with the predicted view of the bench, and to thus further develop perceptions of trust in the perspective of the team in relation to a case, and of legitimacy of the professional assessment carried out. In addition the creation and control of a range of tools and rules will be introduced, in order to address the generalised “headline” concerns of the bench, premised in surveillance and supervision in line with the obvious priorities of the bench.

This response to the quaternary contradictions emergent from youth court activity is then argued to have led to subsequent internal contradictions arising from the transformation of the system. In particular the altered tools and rules of operation will be seen to be in tension with the central object of BSS activity. I therefore conclude by exploring how the team were able to adapt to, overcome or absorb these tensions in the central system, evidencing attempts at autopoiesis within the scheme in trying to maintain a focus on the central object. In particular consideration is given to the emphasis on supervision and surveillance as potentially counter to the aims of minimalising restrictions to liberty, and the combined focus on aggregate and individual objectives with the inherent potential contradictions. In doing so I argue that a shift towards an object premised in seeking aggregate results is resisted, but that the object of minimising restrictions for the individual case is necessarily compromised. Attempts to address, and indeed pre-empt the concerns of the bench will be argued to have lead to a tendency to pursue the maximum restrictions (likely to be) requested, as opposed to the minimum restrictions seen to be necessary by the team. As such there is the potential for increasing supervision and surveillance in order to meet the concerns of the bench, and thus for “up-tariffing” to occur, directly counter to the central object of the BSS team in minimising restrictions to liberty.

### **An alternative ‘strategy’ of youth court activity**

In the first half of this chapter I describe a series of quaternary contradictions, presenting their impact on the development of the system and the culminating ‘strategy’ developed by the BSS team. Chapter 2 introduced the notion of a quaternary contradiction, emerging as the central activity system interacts with

neighbouring systems. These contradictions are experienced by the central system as subject, rule, tool and object-producing activity. That is, through interaction with its immediate environment the central system becomes part of a “value chain” such that the outcome of activity from a neighbouring system becomes a part of the central system. Through this “value chain”, new components enter the system, or tensions and changes emerge in the subjects, rules, tools and objects already present. In the study at hand such interaction occurs within the boundary zone of the youth court and its associated liaison groups, but also through the statutory requirements laid out by the Youth Justice Board. The following discussion therefore describes the resolution of these contradictions, as tensions are addressed and new components embraced and utilised.

The previous chapter introduced two such contradictions emerging from the activity of the BSS team within the youth court. The first of these concerned the nature of the assessments carried out by the team, emerging as a contradiction in the ‘tools’ employed within the central system. As discussed in the previous chapter, a notable criticism of the work of BSS representatives in court amongst those magistrates interviewed related to the (at times) inappropriate use of Bail ASSET. The previous chapter also evidenced the shift in use of the assessment tool in subsequent periods: a partial response to the quaternary contradiction brought about by the challenge to the tools used by the team. Whilst the criticism of magistrates referred explicitly to the use of the tool in cases where assessment was felt to be unnecessary, primarily on the grounds of time, the nature of this criticism was further explored by the Bail Coordinator who believed the basis of, and therefore solution to the dissatisfaction to be not merely (or indeed principally) in the means of assessment but in the



‘appearance’ and ‘impression’ given to the bench by the variety of packages put to them (interview with Bail Coordinator, December 2001). Her response was a reconsideration of the range of cases assessed as suitable for bail by the team, and as a result to the selection of cases put to the bench as approved for BSS.

This revised approach meant a more selective assessment of those cases deemed ‘worthy’ of an argument for BSS being presented, not only at the end of the spectrum at which a non-custodial decision is certain but also for those extremely unlikely to receive anything but custody. To that end the team became reluctant to ‘gamble’ too often by putting forward packages for cases where the ‘odds’ of bail are ‘very slim’. This approach was intended to result in ‘borderline cases’ being more likely to be accepted. The Bail Coordinator sought the perception that the team ‘really believe’ a recommended case to be suitable and likely to benefit from a period of BSS, as opposed to merely ‘going through the motions’ by putting a package to the court ‘in a desperate attempt to avoid custody’ (interview with Bail Coordinator, December 2001).

This approach is an attempt to further develop perceptions of trust in the perspective of the team in relation to a case, and of legitimacy of the professional assessment carried out. By encouraging a greater confidence in assumed correlation between the views of the BSS team and the magistrate, the Coordinator hoped to strengthen the role of BSS staff in court. In essence this strategy merely represents a further iteration or refinement of the original decision not to offer a BSS package to all of those at risk of a custodial remand, on the basis that this would reduce the weight attached to any argument that a particular case is suitable for support. Such an approach was also

presented as in line with a longer term strategy to shift magistrate thinking as to who is appropriate for BSS. By aligning the positions of the team and the bench, it is argued by the Bail Coordinator that a gradual change might be enacted, so as to 'reduce the numbers remanded into custody, and even limit the restrictions placed on the liberty of others' (interview with Bail Coordinator, December 2001). This represents a firm reaffirmation of the ideal central object of the Bail Coordinator, in spite of the quaternary contradiction brought about by activity in the boundary zone.

The change in strategy described by the Bail Coordinator is reflected in the monitoring data collected by the team for Nacro Cymru. The data presented below covers the formal evaluation period of April 2000 to December 2001. Each 'period' refers to a three month administrative unit for which returns were required. 'Period 4' therefore refers to April to June 2000, 'period 5' to July to September 2000, and so on. For the purposes of the data presented below 'period 6' (October 2000 to December 2000) will be seen to represent the key phase in the revised approach. It was during this period that the change in strategy first began to be enacted. As such Table 7.1 shows the sharp decline in the proportion of cases assessed as suitable by the team from period 7 onwards, with the slight drop in period 6 reflecting the actual point at which a change in strategy occurred.

**Table 7.1. Cases assessed as suitable for BSS in the research area by period**

|                 |    | Young people assessed as suitable |            | Total |     |
|-----------------|----|-----------------------------------|------------|-------|-----|
|                 |    | Suitable                          | Unsuitable |       |     |
| Referral Period | 4  | Count                             | 12         | 5     | 17  |
|                 |    | % within Referral Period          | 70.6%      | 29.4% |     |
|                 | 5  | Count                             | 19         | 6     | 25  |
|                 |    | % within Referral Period          | 76.0%      | 24.0% |     |
|                 | 6  | Count                             | 15         | 10    | 25  |
|                 |    | % within Referral Period          | 60.0%      | 40.0% |     |
|                 | 7  | Count                             | 15         | 22    | 37  |
|                 |    | % within Referral Period          | 40.5%      | 59.5% |     |
|                 | 8  | Count                             | 20         | 25    | 45  |
|                 |    | % within Referral Period          | 44.4%      | 55.6% |     |
|                 | 9  | Count                             | 13         | 18    | 31  |
|                 |    | % within Referral Period          | 41.9%      | 58.1% |     |
|                 | 10 | Count                             | 17         | 19    | 36  |
|                 |    | % within Referral Period          | 47.2%      | 52.8% |     |
| Total           |    | Count                             | 111        | 105   | 216 |
|                 |    | % within Referral Period          | 51.4%      | 48.6% |     |

**Source: monitoring data for local area collected for Nacro Cymru**

Of particular interest in understanding this change in assessment approach adopted by the BSS team are the reasons for rejection of referral, required to be noted on the monitoring form completed with each assessment. The monitoring form provides the assessor with a range of options from which to choose. Table 7.2 shows the varied use of these categories over the course of the formal evaluation period.<sup>6</sup>

<sup>6</sup> It should be noted that these categories have undergone recoding in order to make this data useful for evaluation purposes. Through discussions with various members of the BSS team it became clear that several categories were being interpreted differently, causing overlap in application.

**Table 7.2 Reasons for rejection of referral of cases in the research area by period**

| Reasons for rejection of referral (grouped) | Referral Period                   |                                   |                                   |                                   |                                   |                                   |                                   | Total                             |
|---|-----------------------------------|-----------------------------------|-----------------------------------|-----------------------------------|-----------------------------------|-----------------------------------|-----------------------------------|-----------------------------------|
|   | 4                                 | 5                                 | 6                                 | 7                                 | 8                                 | 9                                 | 10                                |                                   |
| Appropriate but Insufficient Resources      | Count<br>0                        | Count<br>0                        | Count<br>0                        | Count<br>0                        | Count<br>1                        | Count<br>4                        | Count<br>0                        | Count<br>5                        |
|   | % within Referral Period<br>.0%   | % within Referral Period<br>.0%   | % within Referral Period<br>.0%   | % within Referral Period<br>.0%   | % within Referral Period<br>5.6%  | % within Referral Period<br>28.6% | % within Referral Period<br>.0%   | % within Referral Period<br>6.8%  |
| Did not Meet Seriousness Criteria           | Count<br>0                        | Count<br>0                        | Count<br>0                        | Count<br>7                        | Count<br>10                       | Count<br>4                        | Count<br>10                       | Count<br>31                       |
|   | % within Referral Period<br>.0%   | % within Referral Period<br>.0%   | % within Referral Period<br>.0%   | % within Referral Period<br>50.0% | % within Referral Period<br>55.6% | % within Referral Period<br>28.6% | % within Referral Period<br>55.6% | % within Referral Period<br>42.5% |
| Other Services More Appropriate             | Count<br>0                        | Count<br>1                        | Count<br>0                        | Count<br>4                        | Count<br>1                        | Count<br>1                        | Count<br>0                        | Count<br>7                        |
|   | % within Referral Period<br>.0%   | % within Referral Period<br>33.3% | % within Referral Period<br>.0%   | % within Referral Period<br>28.6% | % within Referral Period<br>5.6%  | % within Referral Period<br>7.1%  | % within Referral Period<br>.0%   | % within Referral Period<br>9.6%  |
| Risk Assessed as too High                   | Count<br>1                        | Count<br>1                        | Count<br>2                        | Count<br>0                        | Count<br>2                        | Count<br>1                        | Count<br>2                        | Count<br>9                        |
|   | % within Referral Period<br>50.0% | % within Referral Period<br>33.3% | % within Referral Period<br>50.0% | % within Referral Period<br>.0%   | % within Referral Period<br>11.1% | % within Referral Period<br>7.1%  | % within Referral Period<br>11.1% | % within Referral Period<br>12.3% |
| YP Assessed as Unlikely to Co-operate       | Count<br>1                        | Count<br>1                        | Count<br>2                        | Count<br>3                        | Count<br>4                        | Count<br>4                        | Count<br>6                        | Count<br>21                       |
|   | % within Referral Period<br>50.0% | % within Referral Period<br>33.3% | % within Referral Period<br>50.0% | % within Referral Period<br>21.4% | % within Referral Period<br>22.2% | % within Referral Period<br>28.6% | % within Referral Period<br>33.3% | % within Referral Period<br>28.8% |
| <b>Total</b>                                | <b>Count</b><br>2                 | <b>Count</b><br>3                 | <b>Count</b><br>4                 | <b>Count</b><br>14                | <b>Count</b><br>18                | <b>Count</b><br>14                | <b>Count</b><br>18                | <b>Count</b><br>73                |

**Source: monitoring data for local area collected for Nacro Cymru**

Of particular interest regarding the proposed strategy of the Bail Coordinator, is the sudden inclusion of the ‘Did not meet seriousness criteria’ option from period 7 onwards. Through the use of this category we see evidence of the shift in the criteria for assessment as suitable for BSS, designed to change the perception of the scheme to one that is in place to deal with more serious offenders and in particular those at risk of custodial remand. The assessment of the BSS representative in court is made known to the other court users, through a written or verbal report of the assessment. Thus the team are vocal in their judgment that these particular cases are not serious enough to be dealt with by the team. Due to limitations in the data recorded for monitoring purposes, it is not possible to undertake any meaningful comparison of

those deemed to more recently not meet the ‘seriousness criteria’ with those who did so in the past; or more specifically to compare the assessments of this group with those from prior periods, who appear to have received similar assessments, yet not been rejected in the same way. Further evidence is retrievable however in the recording of magistrate decisions.

In addition to illustrating the change in approach taken by the BSS team, the team’s monitoring data also provides some insight into magistrate decision-making. In particular it allows us to consider how the spread of decisions made by the bench are altered by the changing strategy said to have been adopted by the BSS team. As illustrated in Table 7.1 a sharp reduction in the proportion of cases are assessed as suitable for BSS provision, and therefore put forward to the bench for acceptance, occurred from period 7 onwards. However Table 7.3 reveals a different pattern in the rates of young people being accepted by the bench. With the exception of periods 6 and 7, where there is a slight inconsistency, we see a steady period-on-period increase in the proportion of young people assessed as suitable who are subsequently accepted onto the BSS scheme. Thus there is no sudden change or indeed significant change in the aggregated outcomes of magistrate decision-making post-period 6.

**Table 7.3. Cases accepted by the court having been assessed as suitable for BSS in the research area by referral period**

|                 |    |                          | Young person accepted by the court |              | Total |
|-----------------|----|--------------------------|------------------------------------|--------------|-------|
|                 |    |                          | Accepted                           | Not accepted |       |
| Referral Period | 4  | Count                    | 5                                  | 7            | 12    |
|                 |    | % within Referral Period | 41.7%                              | 58.3%        |       |
|                 | 5  | Count                    | 8                                  | 11           | 19    |
|                 |    | % within Referral Period | 42.1%                              | 57.9%        |       |
|                 | 6  | Count                    | 8                                  | 7            | 15    |
|                 |    | % within Referral Period | 53.3%                              | 46.7%        |       |
|                 | 7  | Count                    | 7                                  | 8            | 15    |
|                 |    | % within Referral Period | 46.7%                              | 53.3%        |       |
|                 | 8  | Count                    | 13                                 | 7            | 20    |
|                 |    | % within Referral Period | 65.0%                              | 35.0%        |       |
|                 | 9  | Count                    | 9                                  | 4            | 13    |
|                 |    | % within Referral Period | 69.2%                              | 30.8%        |       |
|                 | 10 | Count                    | 12                                 | 5            | 17    |
|                 |    | % within Referral Period | 70.6%                              | 29.4%        |       |
| Total           |    | Count                    | 62                                 | 49           | 111   |
|                 |    | % within Referral Period | 55.9%                              | 44.1%        |       |

**Source: monitoring data for local area collected for Nacro Cymru**

Taken together the tables do, however, reveal that a smaller proportion of young people are being put forward as suitable by the BSS team and a larger proportion of those put forward being accepted by the bench. Whilst this suggests the desired outcome for the team, given that their assessments are being approved more regularly, this may merely reflect the shift towards ‘correlation’ without any associated influence. That is, the team have merely learnt to pre-empt magistrate decisions whilst having no particular influence on them. Also of importance to the intent of the team therefore is the overall percentage accepted onto BSS amongst all of those assessed. In order to be seen to be successful the approach outlined above would need to result in an increase in proportions made subject to the scheme amongst the general

population of those referred. However as table 7.4 shows there is no such trend observable.

**Table 7.4. Outcome of assessments for all cases referred to the scheme in the research area by referral period**

|                 |    | Outcome of assessments   |                                   |                                       | Total |     |
|-----------------|----|--------------------------|-----------------------------------|---------------------------------------|-------|-----|
|                 |    | Assessed as unsuitable   | Assessed as suitable and accepted | Assessed as suitable but not accepted |       |     |
| Referral Period | 4  | Count                    | 5                                 | 5                                     | 7     | 17  |
|                 |    | % within Referral Period | 29.4%                             | 29.4%                                 | 41.2% |     |
|                 | 5  | Count                    | 6                                 | 8                                     | 11    | 25  |
|                 |    | % within Referral Period | 24.0%                             | 32.0%                                 | 44.0% |     |
|                 | 6  | Count                    | 10                                | 8                                     | 7     | 25  |
|                 |    | % within Referral Period | 40.0%                             | 32.0%                                 | 28.0% |     |
|                 | 7  | Count                    | 22                                | 7                                     | 8     | 37  |
|                 |    | % within Referral Period | 59.5%                             | 18.9%                                 | 21.6% |     |
|                 | 8  | Count                    | 25                                | 13                                    | 7     | 45  |
|                 |    | % within Referral Period | 55.6%                             | 28.9%                                 | 15.6% |     |
|                 | 9  | Count                    | 18                                | 9                                     | 4     | 31  |
|                 |    | % within Referral Period | 58.1%                             | 29.0%                                 | 12.9% |     |
|                 | 10 | Count                    | 19                                | 12                                    | 5     | 36  |
|                 |    | % within Referral Period | 52.8%                             | 33.3%                                 | 13.9% |     |
| Total           |    | Count                    | 105                               | 62                                    | 49    | 216 |
|                 |    | % within Referral Period | 48.6%                             | 28.7%                                 | 22.7% |     |

**Source: monitoring data for local area collected for Nacro Cymru**

While the proportion, and indeed the number of young people accepted onto the scheme remains relatively consistent (bar one three month period), the increase in the proportion rejected is matched by a decrease in the proportion rejected as unsuitable by the magistrates. The table therefore offers no indication as to the desired general shift towards the use of BSS, only a change in the relationship between the team and the magistrates. This statistic in itself does not preclude the possibility that such a shift is occurring, but does suggest that any transformation is necessarily more subtle

than such aggregated monitoring data might capture and requires an exploration of individual cases. Of some use however is a consideration as to the outcome of those cases rejected by the bench and the formal reasons for this rejection, although neither suggests the success of the Bail Coordinator's revised approach. Consistently high, if fluctuating, proportions remanded into custody suggest that there has been no significant change in the outcomes for young people at risk of custody yet put forward for BSS by the team. Furthermore brief consideration as to the reasons for refusal given by the magistrates suggests no change in thinking amongst the bench as to what constitutes an appropriate case.

The limitations in the monitoring data place greater emphasis on my qualitative enquiry in any attempt to understand how the approach of the team has developed. In order to do so, the following discussion addresses particular points of tension for the central system, variably brought about by a combination of necessary responses to changing statutory requirements and discretionary responses to concerns of local magistrates. As such the transformations described will be seen to be both reactive and proactive on the part of the subjects of the central system.

In describing these significant points in the course of the scheme's development, the following discussion also addresses the second quaternary contradiction introduced in the previous chapter, relating to the focus of the assessments carried out by the team. As discussed in chapter 6, magistrates questioned the ability of the BSS team to address the principle concerns of the bench with regard to particular cases; presented as addressing the 'headline' issues in relation to a young person's offending or likely non-appearance in court. As with the criticism of assessment techniques, this



manifested as a quaternary contradiction in the central activity system such that the team were perceived to not have the tools or artefacts necessary to operate successfully in the youth court setting. In response, we therefore observe the team reacting to the apparent tension in their working practices, in an attempt to ‘appease’ or ‘placate’ magistrate concerns, as a perceived prerequisite to influencing decision-making and therefore maintaining a focus on their own motivation for activity.

As will be introduced below, several changes were made to the options available to the bench in defining the package of support and supervision required for a young person. These changes provided a series of components by which to place conditions within bail packages that ensured an increasingly supervisory nature of the provision, ranging from an increased number of standard contacts to an assortment of new components that ensure more continuous and intensive supervision. In part this is a necessary reaction to changing statutory requirements governing the rules of the system, representing a further quaternary contradiction between the YOT and the YJB. However, at each stage I argue that the team implemented these requirements in a specific fashion, as suited their emergent learning, and were at times particularly proactive in changing their approaches. In particular the growth in the number of components of provision available to the team offered the opportunity to convince the magistrates of a shift in the range of young people suitable for BSS. The increasingly supervisory nature of many such components provided the basis for intervention with those cases previously seen to be unsuitable for BSS on the basis that greater surveillance was required. The opportunity for such a shift was recognised by the Bail Coordinator and senior YOT management and forms a further element of the

revised strategy in presentation of assessments and recommendations to the court in order to address the concerns of the bench.

**New modes of surveillance: from additional contact to the contested introduction of electronic monitoring**

A basic requirement of attendance at three sessions per week was included as part of any BSS programme from the outset of the scheme. However in later periods, with growing regularity, magistrates were found to be increasing this commitment to as many as five sessions, meaning one contact a day for some young people. This was presented by magistrates as a means to ‘ensure a suitably arduous package of supervision’ (interview with senior magistrate, December 2003), allowing for a frequency of contact that enables the team to monitor any particular concerns that the bench may have, that otherwise might have resulted in the need for custody.

Furthermore, such contact allowed the court to be confident that they would promptly become aware of any issues that might emerge to make it difficult for the young person to maintain their conditions of bail. As such the increased contact is very much presented as a means for additional supervision rather than additional support.

The potential tension within the system, caused by the effect of these new requirements on the nature of the support provided to the young person, was apparent to the BSS team. Concern was expressed amongst the team that this extra contact was not transferring directly into extra work being undertaken with the young person, or even into extra time being spent per week (field notes from observations in youth court, 2004). Indeed it was even feared that there may be a decline in positive support, being replaced by a relationship primarily based on surveillance. As each visit grows shorter, due to the associated increased pressures on workload, the nature of a specific

contact changes from one of function to one of obligation, with the young person seen to be less inclined to engage in the discussion, and the BSS worker admitting to a reduced effectiveness in this engagement (field note following discussion with BSS team member, January 2004). This model of provision was therefore seen as detrimental to the establishment of a supportive and communicative relationship with the young person, which is in turn seen as important to the scheme's success with the individual.

Through such an imposition the nature of the relationship between the BSS team and young person was therefore altered by the decision of the bench. This represents a clear example of how the BSS team were content to appease magistrate concerns despite the potential negative impact on the nature of the support provided by the scheme. It therefore illustrates the necessarily immediate object of addressing the concerns of the bench with regard to a particular case, at the expense of the central object of the system regarding the appropriate support of each young person. A clear contradiction between the aims of the intervention and the means by which the work was carried out shows the central objects of the BSS team to have been circumvented by additional objects aimed at placating stakeholders (the 'community' within the activity theory triangle) operating in other systems. Rather than challenge this tension at its source within the boundary zone, the BSS team had to instead absorb the resultant contradiction within the central activity system by altering their division of labour, such that there was a separation of the roles of assessment of young people and programme delivery. Observations over the course of my research revealed substantial change in working practices. In the initial stages of the scheme's development the three main YOT workers shared the workload of both assessments

(carried out in court in the morning) and delivery (predominantly occurring in the afternoon). As noted in chapter 5, the change in emphasis of the programme led to the surveillance-based general contact being taken on by volunteers without youth worker experience. Again the potential impact on the relationship between the young person and the team, given the differing nature of the support that the different members of the team are qualified and able to offer, was recognised by the team.

As well as this more general increase in surveillance in the course of the research, several specific measures were introduced by the YJB, evidencing a shift towards more intensive bail packages, aimed at allowing those more serious or persistent offenders to be placed on conditional bail as opposed to being given a custodial remand. I introduce three such options in the discussion below: Bail Intensive Support and Supervision Programmes (Bail ISSP); electronic tagging; and voice verification. With each new component I argue that the team sought to address the tensions in youth court activity at that time by both appealing to the concerns of the bench and reaffirming their own agenda.

Bail ISSP is described by the YJB (website) as a ‘Strict and closely monitored’ final alternative to a custodial disposal, aimed at previously convicted, persistent and serious offenders awaiting trial. As such it incorporates ‘close surveillance backed up by vigorous enforcement’. Therefore, in addition to a similar, if much more intensive, programme of support to address risk factors, a number of ‘surveillance techniques’ are available, including ‘tracking’ through voice verification (as described below) to ensure compliance with curfew conditions, and ‘intelligence-led policing’ allowing the police to ‘monitor the movements of the most prolific young offenders’. Such

substantial input is seen to require a minimum of 25 hours per week of contact with YOT officers. Coupled with the assertions of 'vigorous enforcement', this ensures the scheme draws heavily on the resources of the YOT. Its perceived value to the magistrates of the YCRG was clear however.

Bail ISSP was commonly presented as an important addition to the options available to magistrates in preventing custodial remands, providing a viable alternative for even the most serious or prolific offenders. One magistrate argued that:

None of us [magistrates] like to lock young people up, particularly when they are awaiting trial and we don't know if they're guilty or innocent. We are just taking a risk in locking people away and the effect it has on them. With the ISSP coupled for serious offences, I think this is an ideal disposal for these bail supervision programmes. (Interview with senior magistrate, December 2003)

Several of the magistrates interviewed reported being conscious of decisions they had made that, prior to the availability of extended options might have had to be remanded into custody for a period of time or would have been granted bail but with potentially ineffective conditions. Such supervisory conditions provided 'a stronger option' to support young people who have not been successful in adhering to bail in the past.

This allows us to give the benefit of the doubt to some by using high tariffs as a definite alternative to custody. (Interview with senior magistrate, December 2003)

In attempts to prove their effectiveness in dealing with such cases, the BSS team clearly benefited from the very positive relationship between the magistrates serving the youth court and the YOT. Apparent successes in other areas of intervention by the

YOT positively impacted on perceptions of the BSS scheme. With feedback more forthcoming regarding the operation and impact of sentencing orders, it was through an understanding of these interventions that the magistrates developed an awareness of YOT activity and operation. In particular high profile, positive results regarding post-sentence Intensive Support and Supervision Programmes, Young Offender Management Programmes and Referral Orders were frequently referenced in interviews with magistrates as evidence of a well-functioning YOT.

The breadth of interventions available post-sentence was commonly presented as evidence of the ability of the YOT to work appropriately with a wide range of young people, and thus as the basis for the necessary extensive variety of packages required by a BSS scheme. By association, perceived ‘improvements in disposals’ were seen as providing the necessary options for undertaking work on bail (Interview with senior magistrate, December 2003). In reality however the connection was not as firm as it might seem to the bench, with senior YOT management highlighting workload pressures within these disposals, and subsequent constraints that impacted on the opportunity of other initiatives to draw on these new resources. The most obvious effect on BSS came with the lack of available places on the ISSP programme, given the high demand on the service within the priority group of those found guilty of offences. This resulted in very strict criteria by which the BSS worker should assess a case as appropriate. The Guide to National Standards for BSS (Thomas and Goldman, 2001: 30) suggested that any young person made subject to ISSP must:

- a) Have been charged or warned for an imprisonable offence on four or more separate occasions within the last twelve months; and
- b) Have received at least one community or custodial penalty at any stage.

It was made clear however that these are not necessarily the conditions for entry to Bail ISSP, and that these should be set locally. Thus even more stringent rules were applied in the area under study due to fears of young people being placed on the scheme that did not need such intensive supervision and surveillance or conversely could not be worked with suitably. In the relatively short time that I was still in the field following the introduction of Bail ISSP, such criteria were met on only two occasions. In addition there was very limited capacity in the early stages of the scheme and bail was not a priority. Thus the BSS staff were informally told that no more than one young person should be made subject to Bail ISSP at one time.

The perception of magistrates did not therefore necessarily match the reality of options available to them. Regardless, in interviews with magistrates, it was held that those who previously might have been remanded into custody due to a lack of appropriately intensive bail conditions could now be placed onto such schemes. Whilst an actual referral might have resulted in the YOT having to refuse the placement due to lack of capacity, this perception remains and was in fact actively fuelled by YOT senior management who believed that this may have the 'knock-on effect' of 'less serious cases' being seen as 'even more appropriate' for bail supervision, or rather less appropriate for a remand into custody (field note, conversation with Operational Manager with responsibility for pre-trial services, April 2002). Thus, whilst seemingly in contradiction to a central system premised on reducing restrictions to liberty, the operation of the scheme was very much controlled within the system. By applying such stringent conditions and controlling the final decision as to whether a young person might be accepted onto the scheme, the YOT management argued that they were capable of using this option as a valuable tool in

working towards reducing custodial remands, providing the appearance of stringent provision for ‘extreme’ cases without negatively impacting on the more general object of ensuring a young person’s liberty is restricted as little as is necessary to protect the public.

This attempted control over the use of such provision can therefore be seen as evidence of the central system attempting to ensure a continued focus on their own object of reducing restrictions to the required minimum, in the face of a potential contradiction brought about by government policy and potential localised pressures. Similarly the attempted introduction of electronic tagging to the available conditions within a bail package offers a particularly interesting example of the attempted resolution of emergent quaternary contradictions. The use of such methods in itself marks an important change in the nature of intervention available to the bench when making bail and remand decisions. However, this is made remarkable, and at the time of national interest, due to the contestation over the legality of the use of electronic tagging of those on bail, sparked by the realisation of Nacro Cymru that this youth court had begun to use this technology prior to its official launch. In particular the introduction and continued use of this component will evidence a proactive attempt to resolve contradictions emergent from the immediate local context, despite a subsequent primary contradiction with regard to the statutory requirements that formed the basis of the system.

Electronic monitoring, or “tagging” as it is more commonly referred, was first available to the youth court in February 2001, principally through the monitoring of curfew orders which could be attached to a Probation, Combination or Supervision



Order, or used as a stand-alone sentence. Such orders could be applied to a young person for between two and twelve hours a day, and for any number of days a week, as is deemed necessary for a particular case. The ‘tag’ looked similar to a wristwatch and was attached to the ankle, and thus wearable at all times. It sent a constant signal to the Site Monitoring Unit (SMU) situated at the curfew address, which in turn relays information regarding the young person to a central computer at a control centre. Should a young person remove or damage the tag, or not be at the curfew address at the required times, the SMU contacted the control centre advising of the necessary action. An operator within the control centre would then contact the young person to ascertain an explanation, with a breach occurring should the explanation be ‘unsatisfactory’.

As such the use of a “tagging order” was seen to be ‘high in the community sentence tariff’ such that ‘the next option will usually be a custodial sentence.’ (Premier Monitoring Services, 2001) The use of electronic monitoring was seen to provide a final alternative to custody, offering a significant restriction of liberty whilst providing ‘the opportunity to review personal circumstances, look for work, complete education, spend time with the family and address offending behaviour’ (Premier Monitoring Services, 2001). The natural application to bail and remand decisions is therefore obvious, and indeed shortly following the introduction of the “tagging order” magistrates began to make requests for some of those being placed on bail with conditions to be tagged. The assumption was made by those within the Youth Court User Group and the YOT in particular that the new legislation that enabled the tagging of those subject to curfews as a part of their sentence, together with well-established legislation within the Bail Act of 1976 that allowed local courts to enact

any measures in support of bail, allowed for the use of electronic monitoring in pre-sentencing disposals. This was however disputed by Nacro Cymru on the basis that current legislation did not specifically cover electronic monitoring and thus could not be used to justify what might potentially be challenged on the basis of a breach of Human Rights. Without the protection of specific domestic legislation it was held by Nacro Cymru that the local YOT or youth court might be subject to legal challenge under human and child rights legislation. Whilst the Criminal Justice and Police Act 2001 was to pave the way for the use of such technology this had yet to be enacted, and no timetable for implementation set. Furthermore this legislation was to impose particular conditions on the use of such supervision that had yet to be finalised.

Despite this strong opposition from the national evaluator of BSS, the local YOT continued to argue that the use of such conditions was legal. In particular they contended that, rather than representing an impingement on human rights, the use of such conditions as an alternative to a custodial remand in fact protected the child by preventing ‘the ultimate deprivation of liberty and human rights’ (field note, conversation with senior YOT manager, August 2001). Furthermore by introducing the conditions within the agreement signed prior to being accepted onto the BSS scheme, the YOT argued that the young person had agreed to the use of the technology and could not therefore counter this with a future legal challenge. Following meetings with senior civil servants within the Home Office, the local YOT eventually ‘won the argument’ and were allowed to continue using electronic monitoring techniques, although advised to obey the forthcoming conditions limiting its use (field note, conversation with senior YOT manager, August 2001).

The embracing of this new artefact offers a particularly valuable insight into the strategy of the BSS team. The central argument of the YOT was that such measures prevent a custodial remand for those who would otherwise not have received bail. On the surface, this support can be seen to fit the central object of the scheme, providing a further tool by which a custodial remand might be avoided, and therefore the opportunity for constructive work to be undertaken with the young person during the remand period.

However, a more considered exploration presents this as counter to the more general stated object of ensuring the liberty of each young person is restricted as little as possible, whilst protection of the public is ensured. Should the bench choose to use electronic monitoring for those who without it would still have been placed on conditional bail, becoming a standard or common element of more stringent packages, it would have the reverse effect. Thus, by providing the option the scheme still seeks to work towards its central aim, yet activity within the boundary zone will ultimately determine whether this is successful or not. As such this element of the scheme serves as a valuable exemplar of its general development. As with other elements of the programme once the option was provided to the court the BSS team needed to ensure that it was used appropriately, such that they were able to adapt the use of the condition so as to ensure it serves the purposes of the central activity system rather than those of actors within the boundary zone. BSS staff were confident that any inappropriate use of this device could be inhibited. Once again, strict conditions assured by statute and strongly asserted by the YOT, as to who is suitable for such supervision are designed to act as a safety net by ensuring any misuse of electronic tagging can soon be halted through assertion within the youth court sessions.

Of particular significance with regard to this specific interaction between the various stakeholders in the system is the unconventional roles assumed by some. The clear dominance of local concerns over national resistance shows the relative influence of the two major stakeholder groups within the community of interest for the central system. Attendance at a YCUG meeting showed that all court users were in full agreement regarding the positive potential of the use of electronic tagging as a condition of bail. As such the senior YOT management involved in negotiations with the government and its administrative bodies were simply reflecting this shared opinion. In doing so, however, they show a willingness to conflict with their natural chain of command. Such electronic monitoring was seen to be the most intensive condition available to the court, attracting significant media attention at the time and thus bringing with it significant political connotations. A support for such a condition is therefore not to be taken lightly, and represents a clear willingness to appease the local magistrates, despite having a legitimate escape clause through which to challenge the increasingly supervisory approach of the court and prohibit its use. In particular it should be noted that an alternative additional means of monitoring curfews was available to the court but not adopted with such enthusiasm.

Voice Verification represented a far simpler and less intrusive means of monitoring curfew. The young person was subject to random phone calls from a coordinating computer during the time period in which they are required to be at home. On receiving the call the young person must repeat a series of numbers as requested. The computer then verified the young person's voice against a recording taken at the instigation of the bail condition. Any failure to answer the call or suspicion that the

voice is not that of the young person subject to the scheme was reported to the monitoring service and the appropriate action taken. Clearly such an approach is far less stigmatising than the wearing of a tag and carries far less political weight. However the magistrates I spoke to were fairly sceptical as to the reliability of this method, believing it to be open to forms of deception though ‘recording a voice’ or ‘getting someone else to answer the phone for you’ (conversations with magistrates in liaison groups and interviews, December 2000 to March 2004). Furthermore it was argued the Bail Coordinator that it is ‘inappropriate’ to phone a family home late at night as it would affect other members of the family, as well as potentially ‘interrupting’ the young person’s sleep patterns, ‘yet it is at precisely these times that the curfew must be monitored’ (interview with Bail Coordinator, December 2001). It was these reservations that led to an almost complete disregard of this as an option for ensuring the compliance of a curfew within a bail package, with the alternative option of tagging almost always seen to be preferable. Rather than attempt to reverse this stance, using the legal and political doubt as a means of negotiation, the YOT representatives chose to support the move towards the more overt and conspicuous means of supervision.

### **Repackaged provision: raising magistrate confidence in BSS**

In each of the examples given above we see the BSS team utilising new tools and rules made available to them by neighbouring systems in order to attempt to resolve the contradictions of the central system, emerging from activity within the boundary zone of the youth court. In the remaining two examples of change this endeavour is further evidenced, although we instead see the proactive attempts of the BSS team to alter activity within the boundary zone by raising confidence in the provision on offer:

firstly, through the construction of incremental levels of support; and, secondly, through the formalisation of breach proceedings. In both examples I argue that this represents a repackaging of pre-existing provision and working practices, as opposed to significantly altering BSS activity.

Further evidence of the team seeking to address the 'headline' concerns of the bench, by utilising the desire amongst magistrates for supervision and surveillance, comes in the development of a 'menu' of packages which the court representative of the team offer. Those magistrates more actively involved in negotiations and liaison with the Youth Offending Team senior management were aware of the incremental levels of bail conditions being developed by the YOT through consultation with members of the Bench. Although 'not truly adopted' at the time of the research (interview with Operational Manager with responsibility for pre-trial services, December 2003), three levels of packages were being developed by the team. 'Level One' is restricted to residency conditions, with 'Level Two' also incorporating a doorstep curfew. Within 'Level Three' the young person will also be monitored either by the police (having to report regularly) or by Premier Monitoring Services through an electronic tag.

The development of programmes specifying the extent to which supervision and surveillance is to be carried out represents a commodification of the assessment process, in answer to the obvious preoccupations of many magistrates and to place the packages of support within the common supervisory discourse of the bench. YOT management described these incremental levels as having been instigated in response to concerns amongst magistrates within the Youth Court User Group. The development of these packages aimed to directly address the call for conditions that

met the ‘headline’ concerns of the bench, as discussed in chapter 6, by explicitly highlighting the issues seen to be most salient in deciding whether a case is fit for bail or requires a custodial remand. Thus the complex assessment form is reduced to three choices of packages, with the language encapsulated in the Bail ASSET entirely absent to the point where the assessment seems insignificant to the decision of the bench. This reflects the discussion of those magistrates considered in the previous chapter who were dismissive of the ‘tick box’ approach of the ASSET form.

It is notable that the levels, as described by the magistrates, focus on degrees of supervision as opposed to the forms of support provided by the BSS team. This was common in the discourse of those I interviewed who knew relatively little about the nature of the ‘support’ element of BSS packages. When asked about the detail of the package given to young people, only one of the magistrates began with a description of the types of support provided, recalling one young person who was ‘helped to develop an interest in something.’ (Interview with senior magistrate, February 2003)

The senior YOT staff involved in the agreement of these increments argued that this process benefited the BSS team by placing the emphasis directly on the concerns of the magistrates and CPS in objecting to bail (interview with Operational Manager with responsibility for pre-trial services, December 2003). Whilst not necessarily profiling the support and potentially positive nature of a referral to the scheme, such a stark representation of the assessment and professional judgement of the BSS worker was seen to strengthen the case put forward. To that end the legitimacy of the BSS team and trust in the professionalism of their representative in court, argued in the previous chapter to have been built up over time, can now be seen to be utilised in

making assessments that are easily understood by the bench, logical in their application, and are therefore less likely to be challenged. With such a system the assessor was thought able to argue strongly that a young person should be considered a specific level, and in particular a 'Level One' or 'Two' rather than a 'Level Three'. That is, by suggesting very clear levels of surveillance required the YOT management hoped to prevent 'up-tariffing' through the addition of further conditions thought by the team to be unnecessary.

This change to the nature of presentation was a direct response to the emergent quaternary contradiction of youth court activity, yet maintains the motivation for the assessment within the activity of the central system. Such an approach is seemingly at odds with the initial decision of the team to present individually tailored packages to the court on assessment. The team originally believed that a package of provision should be presented to the bench that was unique to the individual in addressing particular needs with regard to both support and supervision (field notes from visits to YOT, 2001). As a result of communication with other court users this approach was thought not to address the primary concerns of the bench which prioritised simple and explicit consideration of the level of supervision and surveillance required. As such the notions of assessment and presentation were separated so as to meet the requirements of other court users whilst maintaining the level of enquiry seen as crucial to developing a package of support for the young person. Through such a division the team were able to address the contradiction caused by the criticism of the assessment process whilst ensuring the exercise continues to serve the purposes of the team.



A similar repackaging of provision can be seen to have occurred in the formalisation of previously unofficial breach procedures. Whilst not directly related to the package of provision to be decided upon by the bench, this was a further crucial element of the team's attempts to respond to the concerns of both the magistrates and their funders. The establishment of and adherence to strict breach procedures is a vital element of the attempt by the YOT and BSS team to establish the credibility of the scheme, and thus magistrate confidence in making referrals. Whilst clearly a response to the statutory requirement to have such procedures in place, the local negotiation in which the detail of the process was resolved provided an opportunity to establish the professionalism of the team and to placate the reservations of those reluctant to use BSS in cases where a custodial remand is the likely alternative. The development and operation of breach proceedings therefore represents a key exemplar of the interaction between the boundary zone and the central activity system. With its foundation in statutory requirements, yet negotiated locally and in liaison with the full range of stakeholder interests, it embodies the context in which the central system developed. Whilst representing a key transitory object, required by statute and developed under pressure from Nacro Cymru and the YJB, the detail and exact working was an important boundary object creating a base boundary process to which all parties had to adhere for the effective functioning of the court. Furthermore, whilst designed to address the concerns of others within the constraints imposed by government, the central system was able to regulate its use in order for it be utilised in working towards the central object. The potential contradiction brought about by such a change to the rules of the system was therefore transformed into a useful artefact by which to strengthen the activity of the team.

The confidence amongst magistrates in placing people under the supervision of the YOT was strongly linked to the establishment and adherence to strict breach procedures. Those magistrates interviewed highlighted the particular importance of such protocols for those for whom there was some doubt as to whether the bail conditions will be adhered to, or sufficient in order to ensure the young person does not offend whilst on bail. Others also saw breach proceedings as further evidence that BSS did not represent a 'soft option' for those who might otherwise have been subject to a custodial remand, and will not be perceived as such by the young person. This was particularly prominent in considering those for whom BSS represented the final possible alternative to a custodial remand. The necessary conditions would not be set until the bench were confident that breach proceedings will be 'strictly employed and adhered to' such that, should a transgression occur, the bench would 'soon be made aware of it' (interview with senior magistrate, February 2004).

The development of these procedures was however presented rather differently by those responsible for their application within the YOT. As was discussed in relation to the use of more intensive packages, it is the appearance or existence of such procedures and the perception of their application rather than their actual use that is of most significance to the team. Through the portrayal of the strict and consistent application of both procedures and penalties, the senior YOT management and Bail Coordinator argued that they 'buy [themselves] freedom' in application where necessary. Although aggrandizing the reality of the situation one YOT senior manager argued that 'If magistrates think their concerns are being met it doesn't actually matter if they are!' (Interview with senior YOT manager, December 2001) Individual cases can then be dealt with as is seen fit. Thus the appeasement of

magistrate concerns and the assimilation of statutory requirements were also held to benefit the team. This is not to say that the procedures were not applied strictly and consistently or breach proceedings never served (as the monitoring data reveals). Indeed the perception comes from magistrates actually seeing cases returned to court for failure to comply.

The establishment of clear and concise breach policies can therefore be seen to have been utilised as an artefact, and eventually a rule, becoming a part of the strategy with which the central object of the BSS team could still be worked upon. By addressing magistrate concerns that they will be made aware of any discrepancies, that the scheme was not a soft option and would not be perceived as such by the young person, a custodial remand might be avoided. However, whilst principally in place to meet the requirements of the YJB and the concerns of the Youth Court Panel, the standardised and unambiguous nature of the protocols and procedures were also presented as beneficial to the young person by both the YJB and the local YOT officers. Although primarily developed as a means to underscore the supervisory nature of the intervention, the establishment of rules of engagement were argued to be aiding the supportive relationship between the team and the young people. As such, the BSS team were able to maintain a focus on their own goals and intentions. By providing rigidity and structure to the bail support package the young person is given a clear understanding of the expectations of behaviour and adherence. While local policy states that 'Every attempt should be made to enquire about the absence and breach should be used as a final consequence' ('Breach Procedures for [city] YOT', policy document), it seems such action was not seen as a purely punitive measure but as a potentially positive step. Indeed a breach of bail conditions was often seen as a

sign of the need for more support to the young person, as opposed to suggesting the need to further curtail freedom. As such the court was often advised to strengthen the package rather than end it. A breach was not seen as severing the relationship with the young person. Instead it allowed for a re-negotiation of conditions in front of the court, and showed the young person the need for stricter compliance in the future. Furthermore, even if the young person was remanded into custody as a result, the team continued to work with them and their family to offer support and to assess whether they could be released back onto bail at a later date.

Paragraphs 11.1 to 11.4 of the National Standards for Bail Supervision and Support Schemes (YJB, 2001) stress the importance of having ‘no confusion’ regarding the expectations and rules governing breach procedures at the local level. In addition Appendix Two of the Guide to the National Standards for Bail Supervision and Support Schemes (Thomas and Goldman, 2001) lists the ‘Procedure for Non-compliance and Breach’ as outlined by the document which it supports. Although the precise nature of the procedures was to be locally defined, the emphasis is placed on ‘consistency’ as opposed to a particular hard and fast national rule. Whilst there is a concrete assertion that two failures should always initiate breach proceedings, as has been followed in the area under investigation, what constitutes a breachable action is open for local debate.

In terms of unacceptable behaviour, consideration should be given to behaviour that is considered undesirable but is not breachable and behaviour that is unacceptable, that will lead to breach. (Thomas and Goldman, 2001: 33)

Furthermore there is an explicit understanding that the young person needs to be supported in complying with the rules particularly in the early stages of the programme.

They may need assistance in the early stages of programmes to comply with what is being requested. Schemes need to decide in advance what they consider a reasonable excuse. (Thomas and Goldman, 2001: 32)

The outcome of such a breach is however clearly to be governed by a high degree of freedom and professional judgement, with decisions as to whether a particular young person should remain on bail if breached to be made ‘on a case by case basis’

Schemes will need to decide whether the young person should continue on bail. This is likely to be the case if the young person has not offended. (Thomas and Goldman, 2001: 33)

Whilst this assertion as to the power of BSS schemes to decide the outcome of breach proceedings should be tempered by a realisation that such a ‘decision’ represents only a recommendation, with the final outcome of any breach being determined within the court, YOT officers all reported exercising a large degree of discretion in dealing with these matters. It is this discretion that ensures the continued usefulness of breach procedures and outcomes to the overall object of the central activity system.

The flexible interpretation inherent in such terms as ‘inappropriate’, ‘disruptive’ and ‘dishonest’ behaviour, together with the professional (even personal) judgment as to whether an explanation for improper behaviour might be ‘legitimate’ created a variation in the application of breach proceedings, whether this is intentional or not.

Bail team members were candid in discussing examples of cases where they might be

more reluctant to breach a young person who was seen to be progressing well prior to the discrepancy, by not offending, attending all court appearances and complying well over a period of time, particularly if this compliance has come despite difficult circumstances. For other young people it was felt that the stricter conditions likely to be set by court should a breach result in a reappearance, would be detrimental to the young person by vastly increasing the chances of further non-compliance. Although rare, it was even argued that for some young people a 'Warning Letter' should be avoided as it might 'unsettle the delicate relationship' between the bail worker and the young person, altering the nature of the contact from one of support to one of coercion (field note from conversation with BSS staff, March 2002). Once again this is seen to be particularly true of those that were thought to be progressing well, with relationships being established and unexpected advancements made. As noted above, the bail workers presented the court as setting a coercive structure to the relationship between bail worker and young person that needs to be undone or at least transformed in order for communication to be developed and the young person's needs understood. Should a warning or breach occur, such communication was thought to be under threat. Such a flexible application ensured the breach proceedings could be used as a tool in working towards the principle object of the team, as opposed to operating as a restrictive rule imposed upon the workings of the system.

### **Expansive transformation through a challenge to the ideal object**

With each change to the working practices and introduction of new component of provision described above, I have argued that the team were attempting to address the quaternary contradictions emerging from activity within the boundary zone of the youth court. In this final section I explore the impact of these changes on the ideal

objects of the central system, and in doing so suggest the completion of an expansive cycle of transformation (as presented in Figure 2.6), as the object is reconceptualised within a shifted understanding or broader perspective as to its context.

The discussion above has evidenced the development of a range of components in order to address magistrate concerns. In an effort to resolve emergent quaternary contradictions, activity has been premised on attempts to address, and indeed pre-empt the concerns of the bench by having in place artefacts that will allow the team to address any restrictions requested. That is, the team sought to be able to offer a package to all young people by having the artefacts available to them in order to address any concern that might be put forward by the bench. This is in contrast to prior efforts to limit imposition to the minimum restrictions seen to be necessary by the team.

The relationship with the bench therefore became one of appeasement and placation rather than influence. The team sought to position themselves as the provider of an ever growing array of supervision, rather than as a group of professionals with judgement as to what that provision should entail. The tool provided by the YJB in order to manage assessments and guide subsequent support for the individual young person was therefore sidelined by the necessity to respond to magistrate concerns. As such assessments and presentations became premised on the concerns of the bench as opposed to the needs of the individual. The team did not seek to negotiate over who was appropriate but to offer the means by which magistrates could place increasing numbers onto bail.

In this way the aggregate began to take priority over the individual: a marked change in approach by the BSS team. This shift away from professional judgement to magistrate appeasement lead to a strategy of working towards ‘assumed correlation’ between the bench and the BSS team through attempts to reduce the number of rejections of BSS team assessments by pre-emption of likely custodial remands. This approach is reflective of the discussion of chapter 6 which placed the BSS team as relatively powerless within the youth court setting, fulfilling a role defined by others in order to maintain a presence within the system. Furthermore it is in line with the emergent aim of reducing the use of custody, as reiterated by the imposition of Performance Measure 4. This approach was designed to achieve the object of ‘non-custodial remand’ by providing an ever growing array of alternatives that address any and all concerns that might emerge, such that the team would do anything necessary to achieve this ends. As such the focus in developing such components was on the imagined or predicted concern that might emerge, through the creation of packages to suit all, rather than development of a particular package to suit a particular individual.

The activity of the team then becomes geared towards a strategy of control over the use of these new increments of intervention. The purpose of each component is countered by suggestions that the formal availability of such options did not necessarily imply their use (as was especially the case with Bail ISSP), and that their introduction in fact impacts on magistrate perception as opposed to action. The use of such components of provision was also argued to be controlled by the imposition of strict criteria and restricted intake, as noted in relation to Bail ISSP. Furthermore elements of seemingly supervisory provision are presented as potentially beneficial to the young people subject to BSS, most notably with the breach proceedings seen to



positive given the ability of the team to ‘control’ its use. However this apparent control over the development and use of supervisory methods is contrasted by the clear willingness to placate the key concerns of the bench in focusing on the ‘headline’ concerns of the bench, seen to broadly equate with an emphasis on supervision rather than support, and thus with risk rather than need. This was evidenced by the development of a ‘menu’ of incremental packages, premised on degrees of supervision as opposed to forms of support. Whilst again presented as beneficial to the aims of the BSS team in terms of the case put forward, the enthusiasm with which the team introduced electronic monitoring in the face of opposition from their funders and in essence line managers portrays the team as placing the appeasement and placation of the bench at a necessary precedence over the stated central object of providing support for the young person subject to the scheme. Thus, the ideal object of supporting the young person by putting in place the appropriate package of provision might remain but a material object of magistrate appeasement has taken priority.

In this representation a non-custodial remand is in itself perceived to be a success or the desired outcome, which in turn can be achieved by any means. This is in tension with the idealised representation of the object by the Bail Coordinator at the outset and consistently presented throughout the evaluation period of minimising the restrictions placed upon the liberty of any young person to those that are necessary. In place of the multiple aims described at the outset we therefore see a primary focus on the seemingly simple discrete goal of reducing custodial remands, at least within the activity of the youth court. That is, attempts to alter the decisions of the bench are based on a desire to reduce the use of custody. Such a strategy is of course in keeping

with the object agreed by the YOT management and senior magistrates of reducing custodial remands, and more significantly with the aims of managerialist policy. However the emphasis and means to achieve this policy is changed in line with the pressures on the scheme within the local context. More specifically the scheme is dependent on the outcome of activity of the boundary zones in order for their own aims to be realised. We therefore see a more immediate (and necessarily primary) aim of satisfying the concerns of the magistrate. Given the influence maintained by the bench over the 'success' of the scheme in working towards any of its stated objectives, the ideal objects of the system became reduced to being able to satisfy the concerns of magistrates. At the local level we see a scheme that seeks to be able to address as many of the concerns of the bench as possible in order that the use of custody might be averted, to the extent that it seeks to adopt electronic monitoring techniques not yet agreed by the YJB and contested on the grounds of human rights legislation. Even the most restrictive surveillance is therefore justified.

Whilst the prescribed and idealised objects of chapter 4 remain, they are therefore necessarily altered by the context in which the scheme operates. Priority is given to the immediate object of successfully operating in the youth court and associated appeasement in relation to each case. That is, the ideal objects cannot be achieved without addressing immediate and material objects as defined by the boundary zone, and more pertinently the magistrates operating within it. The influence of neighbouring systems has therefore led to the reconceptualisation of the object so as to meet the concerns of stakeholder groups by addressing the concerns of those upon whom the 'success' of the central system depends. We see the transformation of the system to address contradictions surfaced by boundary activity. The initial internal

construction of the system had been found to contradict activity occurring within the boundary zones. This external influence had been experienced as a series of quaternary contradiction that have guided internal developments, in an attempt to seek the resolution through which activity in the boundary zones might be better able to serve the purposes of the central system. Fundamental to the resolution of these contradictions has been a reconceptualisation of the object of the system, giving rise to a culturally more advanced central object that meets the requirements of the local context by addressing the concerns of those upon whom the ‘success’ of the central system depends. This represents the co-evolution of system and environment such that the system meets the requirements and constraints of its interactions with its immediate environment within the boundary zones.

### **The emergence of new activity**

The discussion of this chapter has highlighted a number of quaternary contradictions principally brought about by, and in the least experienced through the operation of the scheme in the boundary zone of the youth court. Prominent amongst such discussions is the apparent shift towards an increasingly supervisory scheme, in terms of the nature of both the young people subject to the scheme and the components of intervention provided accordingly. We have observed notable changes to the support provided by the team, including the introduction of Bail ISSP, electronic monitoring and voice verification technology, the shift towards the regular request by the bench for extra contacts, and formalised breach proceedings. In parallel the ‘strategy’ enacted by the team in assessment and presentation was described, in response to the changes in available provision and the direct criticism of other court users. In particular changes were described in the reasoning given for the rejection of referral,

seen as evidence of a notable and clear shift in the criteria for assessment as suitable for BSS designed to utilise the imposition of higher end supervisory conditions in changing the perception of the scheme to one that is in place to deal with more serious offenders and in particular those at risk of custodial remand. As well as changes to the undertaking of assessments we see changes to the nature of presentation, portrayed as an attempt to align the assessments of the team with the predicted view of the bench and to thus further develop perceptions of trust in the perspective of the team in relation to a case and of legitimacy of the professional assessment carried out. Such an approach is also presented as in line with a longer term strategy to shift magistrate thinking as to who is appropriate for BSS.

The development of the activity of the team within the court setting, so as to meet the concerns of the magistrates in relation to a particular case, represents a challenge to the object of the scheme brought about by activity in interaction with its environment. The interest of local stakeholders can be seen to be taken into account, leading to a reconceptualisation of the object whereby the aggregate takes precedence over the individual and the aim of supporting the young person is replaced by the aim of appeasing the magistrate. Rather than minimising the restrictions to liberty to the minimum necessary to ensure offending on bail is unlikely, the emphasis is reversed to the inclusion of as many restrictions as is necessary to appease the bench. The central aim of the scheme is therefore maintained but the means by which this is achieved is significantly altered as the rules in operation at the local level are controlled not by the YJB but by the immediacy of the magistrate control over the courtroom. Thus rather than an object focused on the needs of the young person it is instead focused on the concerns of the magistrate.

This is countered by suggestions that the formal availability of such options did not necessarily imply their use, as was especially the case with Bail ISSP, and that their introduction in fact impacts on magistrate perception as opposed to action.

Furthermore the use of such components of provision is seen to be further controlled by the imposition of strict criteria and restricted intake, as noted in relation to Bail ISSP, whilst elements of seemingly supervisory provision are presented as potentially beneficial to the young people subject to BSS, most notably with the breach proceedings seen to positive given the ability of the team to 'control' its use.

However this apparent control over the development and use of supervisory methods is contrasted by the clear willingness to placate the key concerns of the bench in focusing on the 'headline' concerns of the bench, seen to broadly equate with an emphasis on supervision rather than support, and thus with risk rather than need. This was evidenced by the development of a 'menu' of incremental packages, premised on degrees of supervision as opposed to forms of support. Whilst again presented as beneficial to the aims of the BSS team in terms of the case put forward, the enthusiasm with which the team introduced electronic monitoring in the face of opposition from their funders and in essence line managers portrays the team as placing the appeasement and placation of the bench at a necessary precedence over the stated central object of providing support for the young person subject to the scheme.

In this representation a non-custodial remand is in itself perceived to be a success or the desired outcome, which in turn can be achieved by any means. This is in direct contradiction to the idealised representation of the object by the Bail Coordinator at

the outset and consistently presented throughout the evaluation period. In place of the multiple aims described at the outset we therefore see a primary focus on the seemingly simple discrete goal of reducing custodial remands.

## **Chapter 8. Conclusion**

This thesis has traced the development of a Bail Support and Supervision Scheme within a local authority in the West Midlands, seen to represent a key, test-bed, targeted area for the initiative. In doing so I have explored the implementation of a managerialist policy initiative, illustrating how the particular context and environment in which the scheme has had to develop locally has influenced this process. Thus, whilst the study refers to the operationalisation of a particular youth justice intervention in a particular locality, it simultaneously serves as a study of a complex policy intervention, typical of an increasingly managerialist system. In tandem to an empirical study, I therefore offered an exploration of theoretical considerations that explain how government policies are translated into localised practice. I presented an approach to local exploration that offers a means to understand managerialist policy enactment, to learn from current attempts at implementation and to subsequently develop responses that might more successfully work towards the achievement of the policy goals of new public management. To this end I developed an approach rooted in a particular strand of activity theory, primarily from within the tradition established by Engeström, grounded in both the theoretical literature and the experiences of others who have utilised such an approach in empirical study.

### **The local implementation of BSS**

The development of BSS was explored through the interaction of YOT management, BSS staff and other court users in a variety of systems: in its origins within the YOT; within the formal liaison of youth court users; and lastly within the day-to-day working relations within the youth court. In presenting the varied perspectives of

these groups, I have evidenced a managerialist policy initiative at tension with the norms of professional practice. The object of activity was therefore not to be found in the statements of aspiration regarding reducing offending on bail or the numbers remanded in custody. Rather this reflected an ideal object, replaced in activity by attempts to reconcile this with established practice. It is in the exploration of the material, in the influence of aggregated aims on decisions with regard to individual cases, that the impact of the managerialist policy was explored.

In tracing the development of the scheme I have outlined a material object trajectory, describing several transitory objects. In particular I explored those objects at the boundary of the central system, necessary in order to establish the scheme within its environment. Boundary zone activity was seen to result in significant tensions and contradictions in the operation of the central system. In particular the power balance described in chapter 6 placed the BSS team within a boundary zone in which they have little influence. This presented a series of transitory objects to be achieved prior to the central object being worked upon, as the team sought to establish trust, legitimacy and professional recognition. Chapter 6 also evidenced the impact of the division of labour within the YOT on activity in the youth court. Whilst senior YOT staff were capable of achieving agreement amongst their peers as to the intended outcome of the scheme, they were not able (or perhaps even willing) to alter the working practices of the youth court in the favour of the BSS team. In particular the Bail ASSET was criticised by other court users. In the rejection of the formal basis upon which the BSS staff are intended to communicate their professional judgement, the risk management agenda imposed by YJB, is itself rejected. The means by which



the BSS team are intended to influence decision-making is therefore challenged and impeded.

Attempts to resolve these issues were presented as a revised 'strategy' of the BSS team in operating within the youth court setting. As such I evidenced a shift from professional judgement to magistrate appeasement, leading to a strategy of working towards 'assumed correlation' between the bench and the BSS team, through attempts to reduce the number of rejections of BSS team. Such an approach was seen to be in keeping with the object agreed by the YOT management and senior magistrates of reducing custodial remands, and more significantly with the aims of managerialist policy. However the emphasis and means to achieve this policy is changed in line with the pressures on the scheme within the local context. We therefore see a more immediate (and necessarily primary) aim of satisfying the concerns of the magistrate in order that the use of custody might be averted. Thus the ideal object of supporting the young person by putting in place the appropriate package of provision remained, but a material object of magistrate appeasement has taken priority.

Whilst the prescribed and idealised objects of chapter 4 remain, they are therefore necessarily altered by the context in which the scheme operates. Priority is given to the immediate object of successfully operating in the youth court, and the associated appeasement in relation to each case. The influence of neighbouring systems has therefore led to the reconceptualisation of the object so as to meet the concerns of stakeholder groups upon whom the 'success' of the central system depends. We see the transformation of the system giving rise to a culturally more advanced central object that met the requirements of the local context by addressing the concerns of

those upon whom the ‘success’ of the central system depends. This represents the co-evolution of system and environment, such that the system meets the requirements and constraints of its interactions with its immediate environment within the boundary zones.

### **Reflections on the theoretical approach**

Using the notions of object trajectory and expansive transformation, I have therefore shown how local context has impacted upon the idealised object formation arising out of the managerialist policy aims. I have illustrated how this gives rise to a series of material or transitory objects in order to overcome the tensions and contradictions emerging in situated practice. I have also argued that this in turn leads to a reconceptualisation of the initial ideal object. Through the concept of a boundary zone, I have explored how activity occurs between systems, in the collision of both perspective and object, and the necessary development of additional boundary objects that enable the systems to interact effectively. In turn I described the response of the central system, exploring the change in the core activity of the team and the seeming impact of such a transformation on the managerialist policy objectives. In doing so I demonstrated the influence of these development stages on the principal objectives of the scheme, and in particular how the settings in which the scheme has had to develop locally have inhibited the successful realisation or achievement of the stated intentions of government

My theoretical approach has therefore offered useful insight into an exploration of managerialist policy implementation. By taking object-oriented activity as the unit of analysis, activity theory offers a means to usefully conceptualise the notion of the

meso-level, taking it outside of restrictions of agency or institution, towards an appreciation of the encounter between individual and structure. As such I argue the value of activity theory to lie in its focus on the actual endeavours of the people charged with implementing the policy as opposed to the policy itself. The conceptualisation of the system at the level of object-oriented, collective activity provides a focus on the local level, in the context in which policy is understood and put into practice, with explicit consideration to the structural constraints and motivations imposed by managerialist policy control. Furthermore it provides a detailed framework through which to explore the development of the system through consideration as to tensions and contradictions that might be seen to emerge within the system or through the interaction of the system with its environment. Such an approach allowed me to trace the development of practice through consideration as to the transformations within the central system brought about by such interactions. In particular I was able to track the conceptualisation of the object of the system, providing the means to compare the idealised object of the managerialist policy to the development of a material, concrete object emerging from the necessary reaction to the contextual, situated practice.

Such a focus enables a particular aim to be placed within the context in which it is attempted to be achieved. Through this approach I presented a seemingly simple managerialist aim to address a particular objective as though it were discrete and isolated, enacted within a complex system where such an aim cannot be disentangled from the web of other competing aims, pressures and influences. As such the managerialist aim was seen to represent an idealised, abstract object, forever on the horizon, sought after but never reached, and instead replaced by a series of material

and immediate problems to be dealt with in order to work towards this eventual goal. Whilst managerialism might provide the ultimate endpoint to which a system might aim, the immediate environment defines the context in which this goal is to be achieved, bringing particular problems that must be overcome and constructing the basis upon which the system must operate. Through a focus on object as opposed to objective I therefore look beyond the formalised, officially-stated account of the scheme towards an understanding of how this translates into day-to-day functioning.

Consideration of daily activity allowed me to evidence the apparent contradictions between this activity and the ideal object, as provided by national policy, and thus to understand the impact of context on intention. In doing so I was able to show how the aims as given by the government and Youth Justice Board were necessarily morphed or circumvented in order to address the more immediate concerns of the community of interest and its influential stakeholders. From this perspective activity theory presents a means to learn about the ‘distance travelled’ towards the ultimate aim of the policy intervention and the ‘journey’ in getting there allowing for an understanding of the obstacles to enactment and the solutions sought and found within the locality. Such an approach appears to offer much to government policy development in exploring how aims might be better achieved, the support that might be offered and the unanticipated difficulties that might be resolved in order to empower local organisations.

I therefore argue that activity theory provides a valuable tool through which to explore managerialist policy implementation. Given that the purpose of such policy is to produce change it is imperative to understand why that change is or is not occurring in

order that it might be encouraged, strengthened and perhaps reproduced elsewhere, or the barriers to its occurrence recognised and where possible removed. With an emphasis on local enactment and implementation such learning requires local level enquiry through an understanding of context and an exploration of situated practice. Activity provides a concept by which to track this change. Central to all cultural-historical theoretical approaches, and indeed Marxian thinking, is the idea that nature is revealed by change. Within activity theory contradictions and tensions arising from external interaction are presented as the basis for change, experienced as the system transforms in order to resolve the dissonance brought about by such tension. As such contradiction and subsequent transformative processes and outcomes provide a key focus of analysis.

Activity theory also provides a means to recognise context in measuring performance by understanding how a system interacts with its environment and how key parameters within this environment might be altered. As such it provides a means for an understanding of how the policy aim might be better realised through the identification of key contextual parameters. Consideration as to the sequence of transitory objects also offers potential in the planning of policy implementation, through consideration of other activity and its potential impact upon the particular initiative under consideration. More importantly the framework allows those charged with developing such policy to understand what has caused success or failure, and therefore to better plan for the future. Although findings are always activity-specific, and therefore not necessarily generalizable to other activity within a similar or even coterminous system, the approach to understanding activity offers a means to compare systems. A detailed understanding of both system and context allows for the

identification of key parameters within the external environment and components within the internal system that offer potential for development elsewhere.

Similarly activity theory offers a management tool that can be utilised at a local level to understand the tensions and contradictions impacting upon practice. In its most basic application, as a series of questions to be asked of daily actions, it offers a straightforward framework to think through the elements of activity undertaken by any team, and to subsequently explore the seeming tensions and contradictions implicit in this activity. The notion of an object trajectory offers further possibilities. Planning the idealised sequence of objects to be worked on allows the manager to understand the steps required in order to reach the final intent, and to therefore map backwards to understand the steps (labelled here as ‘transitory objects’) towards this final endeavour. In doing so possible barriers may be pre-empted and rectified, or their impact on the system understood as it occurs.

An activity theory framework also offers the opportunity for reflective research. Through a presence in the setting and in interacting with the subjects of the system, the evaluator is necessarily a part of that activity system, in the least as part of the ‘community’ but potentially as ‘subject’. In the course of my research I was intentionally an active subject within the system. By interviewing various stakeholders, asking questions that might not otherwise have been asked, and furthermore sharing the answers with other members of the system I ensured a learning that might not otherwise have taken place. By writing evaluation reports and presenting research findings I surfaced tensions and contradictions within the system that might not otherwise have been made explicit. As such, the evaluator should be

considered a component of the activity system in the same way as any other, with the positive and negative impacts upon its development recorded and understood. As such evaluation also becomes a tool for managerialist policy intervention that can be understood in its role in system development and therefore more suitably utilised in understanding and improving policy implementation.

In a recent seminar at Birmingham University, David Bakhurst (2004) questioned such a general application of the theory. By being used so broadly he argued that activity theory might come up against criticism as representing a framework too general to be useful in application to anything specific. Activity theory might therefore be seen to be either: 'Too good to be true, or too true to be good.' Bakhurst (2004) also warned those applying the framework to:

Be very cautious of given, stable structural representations where there is really flux, dynamism, reflexivity, and transformation.

Through my consideration of the applicability of activity theory to the study of complex systems, and my argument of its mutuality with complexity theory I am confident that I have taken this advice on board. Such a consideration leaves me wary of the constant interaction of system and environment, and of the complexity of any conceptualisation of activity. As such I consider the theoretical and subsequent methodological approach taken here to be a valuable contribution to the development of activity theory approaches.

### **Impact of thesis on current states of knowledge**

In this final section I will argue that this thesis contributes to knowledge in a number of ways, informing: local practice; academic enquiry; and existing research, empirically, methodologically and theoretically.

Whilst I make no great claims on the impact of my research on policy development, the evaluation reports completed for NACRO explicitly fed into a national evaluation, with elements of my work appearing in national reports distributed to the YJB and to other Youth Offending Teams. As a local evaluation the findings are of greater value for local practitioners and policy-makers. The presentation of my data illustrates that rather than simply recording the development of the project I was in fact active in that development and thus influenced local practice. I worked with the BSS team within the YOT over an extended period, with my findings utilised in order to progress the project. This was especially true in relation to the internal development of the YOT as this occurred within the timescale in which I was formal local evaluator. By highlighting structural and procedural tensions inherent in its design, I enabled the team to question exactly what they sought to achieve. By placing that within the activity system I conceptualised, I was able to make explicit the tensions or contradictions that were inhibiting development (as was illustrated in Figure 5.1).

It would, however, be unjust to overplay my influence. The narrative of Chapter 4 shows that the YOT management were clearly influenced by much broader and bigger pressures than the findings of my evaluation. Furthermore I was less influential in terms of activity within the youth court. Although my interviews with magistrates were obviously of interest, chapters 6 and 7 document the strategies of the YOT rather



than informing them. Indeed I did not seek a parallel involvement in this element of the scheme's development. Whilst activity theory provides a methodology that encourages or enables reflection amongst practitioners, it can be problematic to surface tensions within research settings. It is important as a researcher that you are able to do so supportively and positively, maintaining an involvement during the resolution of the issues surfaced. With regard to the development of activity within the youth court this was not possible. Firstly my timescale was such that the completion of this fieldwork marked the end of my involvement in the project. Secondly I was unable to guarantee the necessary engagement of other subjects outside of the BSS team in resolving the tensions I highlighted.

My thesis also makes a contribution to existing empirical research. Particular aspects offer new insights into the research settings; for example, decision making in the court room as informed by perceptions of risk assessment amongst magistrates and YOT workers. Such data supports my conceptualisation of the youth court as an expansive setting, in contrast to the representations of other commentators. More generally the approach I have taken highlights the importance of understanding and exploring local context, interests, and stakeholders in implementing managerialist policy. I have illustrated how policy implementation may be controlled or circumvented by local interests, with immediate environment altering intention.

I have evidenced the potential for other professionals or stakeholders to influence policy implementation in such a way that cannot be easily anticipated or controlled by government or are not subject to the same requirements or subjugation. As such I have highlighted how local (and therefore immediate) interests might necessarily take

priority over the ideal objects of policy formation. In particular the relative power of other stakeholders within the boundary zones in which policy is implemented inevitably leads to contradictions that are not readily challengeable, and must therefore necessarily be absorbed into the operation of the central system.

Whilst the notion of a collective object provides a context boundedness that implies limitations in generalisability, elements of the activity system also provide points of comparison across different settings or cases where similar policies are being implemented), over time or across different policies. That which inhibits in one context might be useful in another. That which helps in one context might be transferable or experimented with elsewhere. Identifying barriers in relation to one setting, case or policy might prevent similar barriers elsewhere. For example, in detailing the development of the BSS scheme in this case study site I have raised questions relating to the types or levels of engagement with other stakeholders that might be helpful prior to implementation.

There is the potential for such a theoretical approach to be overly abstract and therefore unhelpful in an applied context. Activity theory is rooted in a psychological paradigm based upon Marxist and Vygotskian analysis of thought and action. The usefulness to a policy or practice audience therefore needs to be constantly reviewed. Paradoxically activity theory can also be used overly descriptively and fail to ask important questions as to why particular activity is undertaken. It is in the understandings of Vygotsky and subsequently Engeström that the theory comes alive, through consideration to contradictions within activity, to inter-related activity and to movement within systems. Such tools provide very powerful lenses through which to

detail, analyse and question approaches. There is therefore a need to balance detail with applicability and usefulness. Engeström's approaches are particularly helpful here. The need to appeal to the commercial world prohibits excessive academic procrastination.

I also believe my thesis to have made an important theoretical and methodological contribution. New applications also provide new methodological contributions. As evidenced in the range of papers cited in Chapters 2 and 3, activity theory is typically developed empirically, through classroom research, pedagogic practice, and studies of the operation of a range of agencies. The (potentially) abstract fundamental basis to the approach makes a live theoretical and methodological debate necessary; a debate to which I have contributed. In particular I give consideration to observation within an activity theory framework. This, I have argued, is an issue of importance, providing the basis for interviews grounded in a knowledge of day-to-day practice and not simply stated or given aims. This allows the interviewer to separate the ideal or commonsensical representations from everyday actions.

Such a study represents an application of activity theory to a new area of enquiry. Typically such methods are used to explore approaches to learning and inform pedagogy, or in developing business organisations as in much of the work of the CATDWR. Increasingly the notion of activity has been used to explore new forms of collaborative working between agencies and professionals. However the theory has not yet been fully developed in such a way as to inform policy implementation. Through a (relatively) longitudinal approach to understanding changing motivations and priorities, impediments and inhibitions in mapping stages of implementation, I

have shown that activity theory can be usefully applied in understanding how objectives inform actions.

### List of abbreviations

|                  |   |
|------------------|---|
| <b>Bail ISSP</b> | Bail Intensive Surveillance and Supervision Programme           |
| <b>BSPDU</b>     | Bail Support Policy and Dissemination Unit                      |
| <b>BSS</b>       | Bail Support and Supervision                                    |
| <b>CAS</b>       | Complex Adaptive System   |
| <b>CATDWR</b>    | Center for Activity Theory and Developmental Work Research      |
| <b>CPS</b>       | Crown Prosecution Service                                       |
| <b>DfES</b>      | Department for Education and Skills                             |
| <b>ISSP</b>      | Intensive Surveillance and Supervision Programme                |
| <b>Nacro</b>     | National Association for the Care and Resettlement of Offenders |
| <b>PACE</b>      | Police and Criminal Evidence Act 1984                           |
| <b>SMU</b>       | Site Monitoring Unit  |
| <b>YCRG</b>      | Youth Court Reference Group                                     |
| <b>YCUG</b>      | Youth Court User Group  |
| <b>YJB</b>       | Youth Justice Board   |
| <b>YOT</b>       | Youth Offending Team  |

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