

## **Trusting children to enhance youth justice policy: The importance and value of children's voices**

The voices of children<sup>1</sup> in conflict with the law have been neglected throughout history, despite broader advances in understandings of children's rights. As a consequence, youth justice policies and practices have been developed by adults, for adults, in the absence of meaningful input from children. In direct contrast, the progressive 'Children First' model of youth justice (XXXX and XXXX 2015; see also YJB 2020, 2019) prioritises the role of children's voices, perspectives and lived experiences in the design, implementation and evaluation of youth justice services, employing engagement and participation mechanisms to promote positive behaviours/outcomes (e.g. children's ability to access their universal entitlements<sup>2</sup>). Therefore, Child First has been championed as an ideal vehicle for integrating children's voices in the evidence-based development of policy in youth justice and related fields (e.g. education, health, social care), whilst avoiding the contemporary negative and invalidating excesses of dominant adult-centric, deficit-led responses to offending and other 'problem' behaviours by children (XXXX and XXXX 2018; 2015).

This article examines the nascent evidence-base of participatory, engaging and Child First research that seeks to facilitate the meaningful co-creation of youth justice processes (between children and professionals) in order to respond in valid ways to the lived experiences of children who offend. Firstly, the purpose of the paper is to draw upon and critically review existing literature and scholarship on the care and supervision of 'justice-involved' children. This includes submitting risk assessment practices to detailed critique and analysis, and exposing the tensions and interplay between discourses in youth justice policy and practice. The paper then proceeds to explain and justify the need for a Child-First approach within the youth justice system. It explores the extent to which practices remain adult-centred, and whether or not risk-orientated mechanisms persist despite policy reforms and transformations to practice., Leading on from this, the article then presents key findings from published and ongoing empirical research, which utilised a child-friendly methodology grounded in the lived experiences of 'justice-involved' children, with findings and analysis framed and contextualised conceptually or theoretically. The studies contain rich and powerful findings and present compelling arguments in an accessible format related to the importance and value of children's voices in youth justice policy and practice development and delivery. The article concludes by reflecting upon the central arguments in the paper reiterating the dearth of empirical research on children's involvement in the design and development of service delivery in the youth justice field, and ergo the originality and distinctiveness of this paper in terms of adding knowledge and original insight into the academic landscape of children's voices and lived experiences of youth justice policy and practice.

### **Children, not children in trouble**

Children who come into conflict with the Youth Justice System (YJS) of England and Wales are disproportionately likely to have suffered 'negative' life experiences and unmet needs relating to their health and well-being, such as poor physical and mental health, family

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<sup>1</sup> We employ the term 'children' throughout this article, in line with the United Nations Convention on the Rights of the Child definition of a 'child' as any individual up to the age of 18 years (UNCRC 1989).

<sup>2</sup> The Children First model frames universal 'entitlements' to support, guidance and opportunities in terms of the 'maximum outcomes' children can expect from youth justice service (Haines and Case 2015), rather than as the 'minimum standards' required from these services in line with children's 'rights' instruments (e.g. UNCRC 1989).

breakdown, contact with the care system, abuse, neglect, educational underachievement, social exclusion and poverty (Bateman and Wigzell 2020; Taylor 2016). However, these same children that come into contact with the YJS have been historically categorised and labelled by key stakeholders (e.g. politicians, policy-makers, academics, media) as ‘children in trouble’ and ‘children at risk’ (Hopkins-Burke 2016; Muncie 2014), or moreover, troublesome, feckless and evil (XXXX 2018). Such stigmatising labels have been employed and as rationales for invasive, paternal welfarism and/or justice-based, offence/offender focused responses seeking to punish, control and manage future behaviour (Arthur 2016; Smith 2013); all adult-led and adult-focused approaches that marginalise the importance of the child’s voice and experiences as shapers of policy and practice. An unhelpful corollary of these processes of labelling and marginalisation is the imposition of further stigmatising and criminalising master labels such as ‘antisocial’ and ‘offender’ on children. These master labels have a compounding effect, often resulting in:

- ‘othering’ – creating a new category of troublesome, problematic child as distinct (marginalised) from ‘normal’ children;
- ‘adulterisation’ - treating children (particularly when they offend) as though they were adults in possession of full adult capacities for cognition, moral reasoning and ability to accept responsibility<sup>3</sup> for their offending behaviour.

Othering and adulterisation are iatrogenic strategies<sup>4</sup> that close off alternate considerations of childhood and the aetiology of children’s behaviour, at the expense of the primary focus on addressing offending characteristics. Consequently, these strategies of ‘new youth justice’ (Goldson 2000; see also XXXX 2018) foster punitive and criminalising youth justice measures due to their construction of children who offend as different and as unable, unwilling and unworthy of systemic support (Bateman and Wigzell 2020; Brooks-Wilson 2019). In this context, it is, perhaps, no surprise that the voice of the child is seldom heard and less often acted upon.

A prime example of the marginalisation and structural silencing of children’s voices in contemporary youth justice processes in England and Wales is provided by the risk-based assessment and intervention framework, the ‘Scaled Approach’ (YJB 2009). Under the framework (now abolished), the offending behaviour of children was understood through completing an inventory (called ‘Asset’) of quantified, psychosocial ‘risk factors’ for future offending, which informed the frequency and intensity of preventive intervention that followed (Sutherland 2009). The Scaled Approach assessment and intervention framework, became central to all youth justice practice in England and Wales, yet was riven with adult-centrism (dominated by the understandings, decisions and priorities of adults). The assessment inventory was completed by adult professionals during interview with the child,

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<sup>3</sup> This strategy is also known as ‘responsibilisation’ (Muncie 2015).

<sup>4</sup>Such strategies and ‘treatments’ are not resolving the issues they seek to counter. ‘Iatrogenic’ as a concept akin to medical discourse is employed here to illustrate the further harm being inflicted on children as a direct result of these adult-centric measures. ‘Medicalising’ the issues of adult-defined concern in this way where children have little control, power or influence over the process - premised on a belief that children are flawed subjects devoid of agency and in need of their personal deficits being corrected or managed by an authority figure - has led to the design and development of (risk focused) practices that noticeably aggravate the likelihood of further offending rather than address the underlying causes of so-called ‘criminal’ or ‘anti-social’ behaviours and attitudes (Buck and XXXX, S 2020). This practice has also been shaped by - in a Bourdieusian sense - a neo-liberal doxa (Bourdieu, 2003) which has permeated explanations and responses to offending by children.

whilst measurement of the assessed risk factors, explanation of their influence and subsequent intervention planning were typically the responsibilities of the adult alone. The token ‘what do you think?’ section to illicit children’s perspectives was notoriously under-completed and often ignored (Baker 2002, Baker et al 2003), so children’s voices and understandings regarding their experiences, behaviours and needs were largely neglected by the assessment process. A corollary of this neglect was that adult professionals were able to assign full responsibility for offending to children (a strategy of adulterisation), yet those same adult professionals took full responsibility for designing and implementing ameliorative interventions to prevent offending, on the presumption that children lacked responsibility to help themselves<sup>5</sup>. Since 2015, a new assessment-intervention framework called ‘AssetPlus’<sup>6</sup> (YJB 2014) has been rolled-out nationally by the Youth Justice Board<sup>7</sup> (YJB) for England and Wales, replacing the Scaled Approach and ostensibly constituting a move away from viewing and responding to children’s offending through a risk lens<sup>8</sup> (XXXX and XXXX 2015). Crucially, the AssetPlus framework integrates a new emphasis on accessing the child’s voice, alongside increased discretion for practitioners. Regarding the latter point, although there is evidently greater scope for the workforce to exercise agency and relative autonomy in how centralised directives are executed affecting both those who facilitate and those in receipt of care and supervision, the assessment and planning framework does not entirely eschew the complexity or messiness of practice. Nevertheless, in response to longstanding concerns that child-led policy and practice has remained the system’s Achilles’ heel, AssetPlus was intended to reverse this neglect by centralising the voices and experiences of children alongside overhauling the adult-led risk-focused techniques which were previously in place. The assessment is designed to be more referral-orientated with youth offending team workers encouraged to signpost children to outside agencies for support in the form of counselling and psychotherapy or mental health and wellbeing making the process more holistic than hitherto. However, whilst there is a paucity of research available on whether AssetPlus facilitates the meaningful inclusion of children’s voices, early indications from empirical evaluations are that the unwieldy and ethereal nature of the framework has prompted practitioners to default to the adult-centric risk assessment basis of their training, marginalising the child’s voice at the practice level as a result (Hampson 2017; XXXX 2020) and diminishing opportunities for their meaningful input into policy development.

### **The paradox of simultaneous adulterisation and adult-centrism**

We assert that the toxic mix of adulterisation and adult-centric processes prescribed to (rather than necessarily supported by) practitioners in the YJS has conspired to marginalise children’s voices and their associated contributions to youth justice decision-making processes and the assessment framework that informs these processes, thus producing partial<sup>9</sup>

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<sup>5</sup> The paradox of the ‘helpless and hopeless’ and ‘responsible-irresponsible’ child offender – fully responsible for their offending, but too irresponsible to contribute to their own future without intensive support and intervention(ism) from adults (cf. Case 2018).

<sup>6</sup> Youth Offending Teams in England and Wales are now required by the Youth Justice Board to use AssetPlus, the assessment and planning framework to assess children’s needs and provide wraparound care to address the underlying causes of crime. This includes a focus on children’s personal, social and emotional development.

<sup>7</sup> A non-departmental public body that advises Government on youth justice policy and advises multi-agency Youth Offending Teams (YOTs) on how to implement policy in their practice.

<sup>8</sup> However, a risk-informed emphasis on the ‘likelihood’ of reoffending remains central to the assessment process and the planning of interventions the results from it (Hampson 2019).

<sup>9</sup> We use the term ‘partial’ as a double entendre here – in the sense of biased towards risk-informed, psychosocial, individualising explanations and in a sense of incomplete due to this psychosocial, risk bias cutting off broader explanations and responses attendant to contextual, relational, social-structural influences, unmet needs (rather than risks) or indeed, any explanations from the perspective of the child.

understandings of and responses to offending by children. It is our contention that these strategies are underpinned by a fundamental lack of trust on the part of significant adults (e.g. key stakeholder politicians and policymakers): a lack of trust in children's capacity to offer valid (honest, accurate) and reliable (consistent) representations of their lived experiences. Furthermore, youth justice processes and constructions of children who offend can encourage key stakeholder adults to view the children as unable/unwilling to accept responsibility for their behaviour or to engage with support services voluntarily and without compulsory intensive intervention – both of which perceptions illustrate the marginalising and adult-centric strategy of 'responsibilisation' rather than an approach that puts the 'Child First' in understandings of children's lives. This lack of trust manifests in disengaging, adulterising and illegitimate processes and practice prescriptions that prioritise punitive control, compliance, blame and interventionism over meaningful engagement with children – processes driven by disempowered and under-resourced adult practitioners (Hampson 2018; XXXX and XXXX2014; Drake et al 2014). Adults' lack of trust of children in the YJS can result in children themselves lacking trust in adult professionals (their actions, intentions, methods), youth justice relationships with significant adults and the legitimacy (morality, fairness, justness) of systemic responses to the offending behaviour, most notably the policies that underpin practice. An inevitable consequence of reciprocated lack of trust between key stakeholders in the YJS is that children's voices can remain irrelevant in policy development processes – children are seldom consulted, considered or valued when policies and strategies to address offending are designed, implemented and evaluated (XXXX 2020; XXXX and Hampson 2019; YJB 2016; Drake et al 2014; Mason and Prior 2010).

### **Children First youth justice**

A 2016 review of the YJS reinforced the view that the voices of children who offend have been historically marginalised; concluding that radical systemic improvements were urgently needed, in particular, changes focused on creating 'a system in which young people are treated as children first and offenders second' (Taylor 2016: 48). Following this review, the YJB developed their own operational definition of the 'Children First, Offenders Second' principle (i.e. 'Child First' - YJB 2019; adapted from XXXX and XXXX 2015), which formalised the requirement for all youth justice practice to be in child's best interests, constructive (e.g. promoting children's strengths and capacities), non-criminalising (e.g. prioritising diversion) and, most importantly, collaborative (e.g. promoting children's meaningful participation and engagement). The overarching Child First principle and its associated principles form the basis of the 'YJB Strategic Plan 2019-2022' (YJB 2019) and in their 'National Standards practice guidance (YJB 2019b) for professionals working in multi-agency, local authority area 'Youth Offending Teams' (YOTs). Strategically and operationally, the YJB has established the central organisational value for the YJS as 'child-centred':

'We see children first and offenders second. We make every effort to champion the needs of children wherever they are in the youth justice system and ensure we give them a voice. We strongly believe that children can and should be given every opportunity to make positive changes' (YJB 2019a: 7; see also YJB 2019b, 2020).

The centralisation of the Child First strategy of youth justice has potential resonance with a 'Public Health Model' approach to tackling offending by children as a 'health' outcome for children - the product of a range of psychosocial and socio-structural influences (including social inequalities and deprivation) and thus meriting a universal and whole system response, rather than a risk/deficit-based, targeted response (XXXX and XXXX2018). However, the

public health model responses to offending by children (notably knife crime) favoured by politicians and the media have tended towards the epidemiological – constructing offending behaviour as a pathology or disease caused by exposure to psychosocial risk factors and meriting a clinical, medicalised intervention (Harding 2020). Child First eschews such reductionist and pathologising methods in favour of engaging with the child’s voice and experience to co-construct legitimate (otherwise described as moral, fair, just – Tyler 2017) youth justice policies and practices with the potential to promote positive outcomes whilst preventing and reducing negative outcomes for children (YJB 2019; Taylor 2016).

### **The voice of the child in youth justice research**

At this point, we present and explore examples from the emerging (but still woefully limited) evidence-base of youth justice research studies that have placed the child’s voice at the centre of understanding their experiences at different stages of the YJS – in line with the developing national approach to CFOS-informed youth justice<sup>10</sup> in England and Wales (YJB 2018a,b, YJB 2019). Each study has been conducted through a ‘Child First’ lens, prioritising and trusting children’s voices as the vehicle for their engagement (i.e. belief, commitment, meaningful participation) in youth justice processes that promote positive behaviours/outcomes (e.g. diversion into more appropriate support services, access to universal rights and entitlements), constructive relationships with adult professionals, perceptions of legitimacy and the validity and comprehensiveness of evidence-based youth justice policy and practice responses. Examination of this ‘child-centric’ empirical evidence-base begins with a contextualising discussion of the universal processes enabling the meaningful participation of all children in decisions that affect them (Haines). We then present research exploring the centrality of children’s voices in policy and practice development prior to contact with the YJS, illustrated by children’s understandings of criminal law and liability (XXXX). Next, we examine the influential role of the understandings of ‘family’ held by children in the YJS who also have experience of the looked after care system (XXXX). These discussions move us into a more detailed focus on research accessing the voices and lived experiences of children engaged with the formal YJS through being subject to court disposals (XXXX), post-court assessment mechanisms (XXXX) and custodial interventions (XXXX).

### ***Engaging consultation with children***

There is an extensive trajectory of research from academics based at Swansea University that has engaged with children (e.g. in secondary schools, youth offending teams, community groups) to solicit their views on issues that affect them (in line with article 12 of the United Nations Convention on the Rights of the Child 1989). This body of has involved listening to children and, importantly, responding to their voices. It is no surprise, therefore, that Welsh criminologists are the progenitors of ‘Children First, Offenders Second’ approach to working with children (XXXX and Drakeford, 1998, XXXX and XXXX, 2015), which subsequently became the ‘Child First’ central objective for youth justice in England and Wales (YJB 2019a,b). An important strand of this research has focused on the topic of engagement itself (see, for example, Charles and Haines, 2019, Charles and Haines, 2014 ); what it means to children to be engaged in decision-making. A summary of some of our headline research findings follows.

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<sup>10</sup> Such an approach also aligns with the United Nations Convention on the Rights of the Child, most notably: Article 12 (respect for the views of the child) - Every child has the right to express their views, feelings and wishes in all matters affecting them, and to have their views considered and taken seriously; and Article 13 (freedom of expression) - Every child must be free to express their thoughts and opinions (UNCRC 1989).

In order to engage children in meaningful consultation, do not try to do this in ‘adult’ fora. Children do not comfortably sit through ‘board meetings’ with long agendas - indeed most adults find this boring. A local engagement exercise took the form of an ‘All School Parliament’, where four Heads of Service were exposed to 200 children who live voted on the ‘speeches’ delivered by the Heads of Service by holding up their A4 sized voting cards with ‘Yes’, ‘No’ or ‘Boring’ written on them. Seeing these very senior local authority officers (all middle aged grey suited men) squirmed when confronted with 200 signs saying ‘boring’ was unprecedented and a delight – but it led to direct policy change, culminating in the ratification of the UNCRC by the local authority.

Adult domination of the children’s consultation and engagement field has a long history – regrettably and somewhat surprisingly. Research with children focused on measuring children’s engagement in decision-making sought children’s views on established and well recognised rating scales: Hart’s Ladder of Participation (1992) and Treseder’s Diagram of Participation (1999). However, in Haines’s research, children were critical of the conceptual basis of both tools: to them a hierarchy of participation in decision-making was simply incorrect, participation in decisions in all fora are important. They were also critical of the language used in both tools: it seemed to them to be too adult (as expressions of adult power: ‘We’re clever than you’) and did not ‘speak’ to them as children (Charles and XXXX2019) As one child put it:

“You see, they just don’t make sense. We’d never make something like them... They don’t even make sense, the set up’s all wrong and, let’s be honest, they’re not about our participation really are they? They’re all about them [adults]... How can you write something about our participation if we can’t make head nor tail or it? That’s mad.”

So what do children want? Yet again, adult dominated notions about children’s participation in decision-making have focused on international bodies such as the United Nations or on pre-existing formal structures at national and local levels, possibly because these are the organisations where those charged with increasing children’s participation in decision-making work. This begs the question: as most adults do not engage in these bodies what makes anyone think that the majority of children will be interested in them? Haines’s research overwhelmingly found that children were most concerned to be involved and engaged in decision-making about matters that directly affected their daily lives. Decisions affecting their schooling, how to use their leisure time, when and what to eat, were the areas of engagement of greatest concern to children.

### ***Evaluating children’s understanding of criminal law and liability***

After the abolition of *doli incapax* (Crime and Disorder Act 1998), children as young as 10 years old were understood as rational, moral agents, capable of being individually responsible for their criminal actions. Such responsabilisation and adulterisation, however, erroneously assumes that children have equivalent lived experiences to adults and levels of cognitive and emotional maturity to understand the full implications of the criminal actions (Bryan-Hancock and Casey, 2011); moreover that they are aware of which actions are criminal in the first place (Grietans 1999; White et al, 2012). This presents a problem whereby children are automatically presumed to be aware of their newfound legal responsibility, and thus are knowledgeable of this responsibility and the laws that follow it.

Whilst there are studies that focus on children’s perceptions and experiences of the YJS

(Hazel et al, 2002; Botley et al, 2010), research focused on children's knowledge of the law and associated issues of liability is relatively under-developed. Worrall (2020)<sup>11</sup> adopted a Child First approach, using participants lived experiences and knowledge and understandings of common criminal offences and associated liability as a core focus to generate an evidence-base to inform policy and practice regarding issues affecting children in the YJS. A qualitative, exploratory study was designed to include the voices of young adults aged 18-21, rather than children, in order to gain a full understanding of their knowledge of criminal responsibility and liability throughout their child and adolescent lives. At this age, it was considered that individuals would have had exposure to a wider variety of social media platforms, an opportunity to have had lessons, or some form of education (albeit formal, such as school, or informal, such as TV), as well as having more experience of either seeing, hearing, or being a part, of potential criminal activity, thus playing a significant role within their understanding of this area.

Semi-structured interviews, to 40 young adults aged 18-21 fed into focus groups (n=4; each containing 10 participants), during which participants were shown a short film of staged violence - an altercation on school grounds, and a group attack on a young person resulting a fatal stabbing. Participants were asked to identify what offences had occurred and who was responsible for those offences – followed by questions about where their knowledge of the offences and criminal liability came from. All participants were able to identify that a death had occurred, although there was a lack of clarity whether it would result in a murder or manslaughter conviction. With regards to liability, discrepancies amongst participants arose. All participants believed all involved in the group attack would be liable, although only 5% of participants were able to identify that this would be under the doctrine of joint enterprise. Shown answers were guessed (e.g. 9% responded 'I don't really know' to certain questions) and the estimated offence ranged from manslaughter to ABH. Participants tended to overestimate the level of responsibility held by others outside of the offending group (e.g. 8% believed that people in houses adjacent to the attack were liable for a negligence offence and that the school was similarly negligent in not checking for possession of a knife). When questioned about the origins of their offence and liability knowledge, 13% identified law studies at college, whilst the majority of participants had learnt about law from social media radio and TV. Fewer than 10% had been taught law and legal responsibility at school, yet 95% believed that these issues should be taught at school.

Participants were able to identify the most serious offences, but there was a relative inability to identify lesser offences (e.g. assault). Few were clear regarding the criminal liability and this element tended to be overestimated, potentially explicable by the origins of much 'learnt law' in social media, which privileges serious crimes (Greer, 2012). If indeed there is a widespread lack of knowledge regarding lesser offences due to limited understanding of legal implications and liability, even amongst young adults where most informal and formal education has been exhausted, the implication is that many children could be subject to the YJS without proper understanding of what they have done wrong. If law and criminal responsibility are not being taught (indicated by the lack of knowledge amongst some young adults), then many children may be entering the YJS with a complete lack of understanding of why they are there. Ultimately, ensuring that children have knowledge of the rule of law, and what can constitute an offence to which they can be held and liable for, is fundamental to their rights and freedoms.

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<sup>11</sup> This research is currently ongoing with analysis of early research findings being presented for the first time in this article.

In terms of policy making, participants stated that they believed law should be taught within school, implying that educational strategies need to be put in place for children to learn of their legal responsibility and understand what they are. However, education should not be restricted to schools, which should be expanded within the YJS – with children given the right to education within that setting to learn about their legal responsibilities, in order to help make better life choices. Children need to be recognised as children and not miniature adults (Rundell, 2000; XXXX and XXXX 2015). Attention should be drawn to their limited knowledge and understanding of criminal offences and liability, as well as general lack of life experience, rather than the adult-centric, risk-orientated approach that is currently in place. This is paramount within a youth justice setting as risk-orientated approaches, responding to the understanding of offending through predicted risk factors, only responds to what children may do in the future (XXXX, 2016). Evidence suggests (see Grisso 1981; Barnes and Wilson, 2007) that experience within the YJS, or lived experience of children and young people, does not necessarily improve their knowledge of the law and the justice system, and they do not ‘know it all’ (Barnes and Wilson, 2007); it is educational support which needs to be met. Therefore, practitioners and policy makers may find it useful to recognise the consequences that may arise from a general lack of knowledge and understanding (XXXX 2020), especially with regards to offending behaviour, in order to promote positive outcomes for children and young people entering the YJS.

***The ‘family’ project: What does ‘family’ mean to former looked after children who offend?***

The risk factor research evidence that underpins youth justice policy and practice in England and Wales consistently identifies the ‘family’ and elements of family life as exerting a criminogenic influence on offending by children (e.g. Zara and Farrington, 2020). However, what constitutes ‘family’ is rarely defined or operationalised in such research, particularly from the perspectives of the children whose lives are analysed in relation to it. Consequently, the criminogenic (or otherwise) influence of ‘family’ is poorly understood in youth justice research. This is replicated in youth justice policy, where definitions of who constitutes ‘family’ are not provided, yet “intensive family support schemes” (Respect Action Plan, 2006: 3) are recommended. The rationale behind the ‘family’ project was to explore how the children at the centre of these policies and interventions draw on their own personal experiences when constructing their definitions of ‘family’.

There has typically been an adult-centric focus to youth justice (and broader childhood and family) research (Scott, 2014) which fails to take account of children’s experiences. Therefore, it was important to involve children who have offended in this research project on exploring the meaning of ‘family’. This was to capture their lived experiences and to understand how these impact on their everyday lives. In the YJS, the neglect of the child’s voice can be explained (at least in part) as due to the multiple challenges facing researchers when conducting research with children who offend (a highly vulnerable and complex group), for example, negotiating access through gatekeepers (Coyne, 2010) and ensuring the research is accessible for children who may have additional support needs, disproportionately likely amongst LAC children (Heath et al, 2009; Lefevre, 2018). The project spanned two geographical locations (London and Glasgow) and used a mixed methodology; comprising of questionnaires and focus groups. Allowing the children to discuss the meaning of ‘family’ at their own pace and in a way that they felt comfortable was paramount in XXXX’s research as it enabled the accurate capture of their voices and perspectives regarding family. As ‘family’ is considered a sensitive topic, handing some of the responsibility and design of the research



over to the children allowed them to disclose as much or as XXXX as they wanted, during the group sessions.

The children who participated were chosen due to their contact with the YJS and prior experience of being a LAC. During discussions about the meaning of ‘family’, their LAC identity was drawn on far more than their ‘offender’ identity to explain why they felt a certain way about the term. Initial findings suggest that these children placed more emphasis on the affective factors and emotions involved in ‘family life’ than the presence of specific ‘family members’. The child-led discussions centred around the importance of love, trust and safety and how all three help to determine who should, and should not, be considered ‘family’. Children also highlighted significant differences between expectations and reality concerning family life; specifically relating this to their experience of being a LAC. Having a negative experience, where expectations were not met, resulted in the children associating negative emotions with the term ‘family’; impacting on their overall well-being. Consequently, they actively chose to use alternative words for describing others who they felt emotionally close to.

For children who have offended and who have had LAC experience, it is evident that the term ‘family’ may have a different meaning to what adult professionals typically assume it to mean (Brown, 2019). Creating appropriate space and opportunity for these children to explore the term has uncovered what they consider to be most important; a strategy for maintaining good mental health and well-being that should be standard procedure when working with children. Contrary to much policy and practice, ‘family’ does not always refer to the presence of biological ‘family’ members, but instead, refers to the presence of affective factors such as love, trust and safety.

### ***Promoting inclusive youth justice***

Child-led practice has not been a fundamental feature of recent youth justice policy in England. The Youth Justice Board’s Participation Strategy published in 2016 set out to reverse this neglect by infusing a change in culture and giving credence to the voice of the child. Despite such strategic planning and mechanisms to involve children more centrally in YOT supervision, there continues to be uncertainty regarding children’s ability to meaningfully contribute to the decision-making process (XXXX, 2018; XXXX and Hampson, 2019). The ‘Promoting Inclusive Youth Justice’ research programme aimed to investigate the efficacy of children’s involvement in the design and delivery of youth justice services, most notably the programmes and interventions that are implemented as part of court disposals. Noting the dearth of empirical research dedicated to exploring children’s ability to express agency and influence personalised care/supervision or governance arrangements in YOTs in England, the researcher prioritised accessing the voices of the most excluded children in the YJS, those labelled ‘high risk’ (XXXX 2020). The study involved 15 months of fieldwork undertaken between 2016-2017 at a YOT in England, with data collected through participant observations of practice supervision, group work projects and feedback forums, and interviews with children (n=20) and professionals (n=20). Children interviewed were either subject to a Referral Order, Youth Rehabilitation Order, Intensive Supervision and Surveillance or a Detention and Training Order. Professionals and managers were from diverse backgrounds, including health, speech language and communication, and social work.

Thematic analysis identified a series of findings highlighting the extent to which children can be enabled to become meaningfully involved in youth justice processes, notably shaping the content of plans and the format of specific interventions. Several children felt uncomfortable

being in a position of power over matters that affected them. When asked about what improvements could be made to YOT policy and practice, some children felt unqualified to pass judgement. For example, Tommy (16) confessed:

“I don’t think it’s up to me to say that, is it? I don’t think... I don’t get a say in what the YOT do, do I?”.

This view was reinforced by YOT practitioners reporting that children were not typically entitled to influence certain aspects of the youth justice decision-making process particularly in relation to governance arrangements. For example, one YOT Manager asserted:

“I think children should have some say in, sort of, the way that their interventions are delivered and things like that. But in other ways, sort of in the way that the service is structured, what we’re directed to do under our statutory obligations, et cetera, there shouldn’t be any say from them, if you like”.

Some children and practitioners indicated that youth justice practices tend to be more adult-led and risk-averse when seeking the child’s cooperation, so not necessarily a collaborative or a shared endeavour. Children felt that opportunities to input into their intervention plans were limited, with the service tending to impose its vision or agenda - with organisational needs, not children’s wishes, placed at the forefront of service delivery. However, some professionals were particularly committed to sharing power and control with children, principally due to the perceived difficulties in securing participation in supervision sessions. Finally, both sets of stakeholders agreed on the centrality of forging positive and trusting child-staff relationships in order to bolster children’s participation and reduce the likelihood of passive compliance with youth justice processes (XXXX 2020).

The ‘Promoting Inclusive Youth Justice’ study uncovered inclusive and exclusive aspects of practice that either facilitated or foreclosed children’s participation. It found that certain children under YOT supervision felt that their knowledge or unique perspective was devalued, with support plans not being reflective of their individual wants and needs. Others appeared hesitant about being in control of the decision-making process or shaping the content of their supervision. Therefore, there must be a policy and strategy commitment to reverse the disempowering effects of an adult-led risk-averse YJS. It is recommended, therefore, that youth justice professionals foster non-hierarchical empathic trusting relationships and proactively strengthen the child’s involvement in processes and systems, particularly governance arrangements. This involves facilitating meaningful opportunities for children to negotiate the form and content of supervision arrangements including structural support systems, with children’s experiential knowledge rendered valid/credible and their emotional health and wellbeing needs prioritised (XXXX, 2018). This can pave the way for more active rather than passive or shallow forms of participation, preventing those under YOT supervision feeling disaffected and experiencing systems as uncomfortable (see XXXX and XXXX 2015).

### ***YOT Talk: Exploring the language barrier to engagement in youth justice assessments***

The ‘YOT Talk’ study (XXXX et al 2020) explored the elements of communication that can be enablers of, and barriers to, children’s engagement with and inclusion within youth justice assessment processes. It used a mixed methodology of observation of assessment interviews (n = 19), questionnaires with children in the YJS (n = 44) and YOT practitioners (n = 23) and focus groups with YOT practitioners (n = 2 with 5 staff in each) in three Youth Offending

Teams in England and Wales. The research findings identified asymmetrical (adult-dominated) power dynamics during assessment interviews and challenged perceptions of children's communicative deficits as self-imposed and irreconcilable barriers to effective assessment. The strong indication was that children in the YJS have more capacity to communicate and engage than previously thought (due to predominant presumptions of communicative deficits as the drivers of disengagement) uncovers a rich vein of untapped (explanatory) communicative influences that could inform assessment strategy in the YJS of England and Wales.

The findings indicated the need for a rethink of how the 'AssetPlus' assessment-intervention tool is delivered in order to remove barriers to engagement that currently exist, including how practitioners approach assessment. Implementation of AssetPlus was enhanced (communicatively) through restructuring/reordering of the assessment sections and associated questioning to foreground and privilege *positive aspects of the child's life* (e.g. foundations for change, strengths, capacities, prosocial experiences, interests, hobbies, goals) in a prospective manner (e.g. as a means of pursuing positive behaviours and outcomes, including desistance). Refocusing on positive elements in the child's current and future life in this way was found to increase the child's engagement across all dimensions by offering the child more control over the direction and nature of the interview process.

The research concluded with a series of strategic recommendations for improving the communicative features of assessment policy and practice in order to maximise children's engagement (across the identified dimensions) and to mitigate and/or remove disengagement during interviews. Evidence suggested that the restructured and refocused implementation of AssetPlus should be grounded in the relationship-building between the practitioner and the child. The prioritisation of relationship-building as the vehicle for promoting effective assessment can be facilitated communicatively by: rapportbuilding (e.g. practitioner use of slang, jargon, humour and inclusive language), more open questions (enhancing the child's control over the interview contents and focused) rather than closed questions (which can inhibit cognitive engagement), practitioners ensuring the child's understanding and negotiating meanings of assessment processes and associated questions, along with practitioners ensuring their own understanding of children's responses.

### ***Children's views of education in prison***

There is a very limited evidence-based detailing research conducted in custodial institutions to understand children's perspectives on their education. In 2012/13, the YJB instigated a workstream to explore differential access to college education amongst children serving prison sentences. There was inconsistency between different Young Offender Institutions (YOIs<sup>12</sup>) in their use of ROTL<sup>13</sup> to facilitate access to college interviews, for example. There was also found to be inconsistent practices by college staff. Prior to this, YJB research identified multiple barriers to future progression in education, training and employment for children serving sentences in the community and in custody (YJB, 2006).

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<sup>12</sup> Young Offender Institutions (YOIs) are prisons for children aged 15-17 years. They are run by HM Prison and Probation Service as part of the wider prison estate. Separately, there are also YOIs for young adults aged 18-21 years.

<sup>13</sup> ROTL is Release on Temporary Licence. It is designed to enable "participation in activities outside of the prison establishment, directly contributing to community resettlement and development of a purposeful, law-abiding life" (HMPPS, 2019) <https://www.gov.uk/guidance/release-on-temporary-licence>

A significant study in this area was led by XXXX (2015, 2018), who surveyed children in a YOI in England using questionnaire (n = 47), discussion groups (n = 25) and one-to-one interviews (n = 4). The majority of these children felt they had had the opportunity to participate in educational activities at the prison, but their views about the extent, nature and influence of this participation varied. In particular, three thematic issues were highlighted:

- **Limited choice:** Some participants had strong ideas about what they wanted to study or train in and had been left disappointed by the restricted educational options available. Whilst classroom facilities were good, classes did not always take place due to staff shortages or disruption in the prison. Choice was particularly constrained if participants had already attained GCSEs and for children assigned anything other than a low risk level;
- **Barriers to learning:** Children identified a variety of barriers to learning associated with prison life, such as difficulty concentrating, conflicts with others, coping with long sentences or not knowing where they would be living upon release. A key barrier identified by discussion group participants was the nature of their risk assessment, which could severely limit their educational options. According to one participant: *'I have a high-risk assessment, so there's not much I can do. I can do different stuff but it's all based around education (not practical activities). I don't wanna do education.'*

Those children experiencing some of the greatest barriers were those segregated from the main population. Despite efforts by the institution to provide these children with education, each discussed their disengagement both before and during their time in prison.

- **Informal learning opportunities:** The most well-received learning activity amongst the children engaged in the research was the *Raptor* project, which allowed them to work with, and care for, birds of prey living at the prison site. This stood out as an activity in which they felt they had positive opportunities for learning and the potential for increasing levels of responsibility over time. Responses from participants involved with the project were extremely positive. For example, 'Matt', one of four children interviewed whilst subject to segregation, was extremely enthusiastic about this project: *'Raptor is one of the best things I've done since I've been here...on Raptor, I'm learning something new, I never knew it existed before.'*

Children involved in participatory, engaging and Child First research (YJB, 2006; XXXX, 2015) highlighted a role for education delivered in custody to focus on getting children ready for their education, training and employment on release. One child participating in XXXX's research, for example, suggested the idea of 'taster courses', to give people choice about what they might want to do more of and ultimately help people "to find their own path". This is possible in a context in which a pedagogic relationship exists with a trusted adult that allows the exploration of ideas and practice that is meaningful for each child. The informal learning opportunity afforded by the *Raptor* project illustrates this (counter to the typical custodial educational experience) by enabling some of the most vulnerable children move on from negative prior experiences of formal education. This points towards what Warr (2016) has referred to as the need to 're-privilege' informal education provided in custodial settings to support dialogue-based learning which is sensitive to the context in which it operates. If the goal of education is to help individuals become a fully functioning person (Rogers, 1983) then children need opportunities for self-directed, experiential learning in a social context that

is not too oppressive for the learner. Education provision could achieve a lot more. Rather than simply achieving functions of control and management and meeting minimum legal and contractual obligations, it should seek to enable children to make positive developments in their own lives. They can play an important part in determining what these should be. There needs to be greater scope for trusting children to play a part in curating their own learning journey in order to support improved educational and social experiences.

## **Conclusion**

This review article set out to explore the integration of children's voices within youth justice policy and practice development. The purpose was to theorise the efficacy of participatory practices in youth justice by presenting original empirical data drawn from innovative child friendly methodological approaches, including a blend of activity-oriented focus groups, participants observations, questionnaires and in-depth interviews.

The article presented key findings from published and ongoing empirical research, and presented compelling arguments related to the importance and value of children's voices in youth justice policy and practice development and delivery. The paper put forward a series of internationally relevant and cogent arguments.

Children who come into conflict with the YJS often have complex life experiences. For us, this means that reductionist, deficit-led, adult-centric, problem focused and responsabilising tendencies in how we respond to these children should be averred. Children's voices have been noticeably absent from youth justice policy development in England. Therefore, it is recommended greater opportunities are provided to children to have a say and influence decision making at this level. Furthermore, it is recommended that youth justice professionals treat children in the Youth Justice System as children (not 'offenders'), fostering non-hierarchical, empathic, trusting relationships with children, strengthen the child's involvement in policy and practice processes and centralise their educative, health and wellbeing needs.

Children continue to be the recipients of adult-led, deficit-facing practices underpinned by a longstanding preoccupation with identifying and managing 'risk'. These practices have undermined children's knowledge and potential by distrusting their perspectives. In contrast, the arguments we set out above and the tentative forays into effective practice are intended to show the importance and benefits of engaging with children, of listening to their voices in the planning and delivery of 'justice' oriented responses.

Drawing upon the arguments that we have set out, as well as the studies that have been presented, it is clearly evidenced that children are not mini-adults. Children are not part formed individuals awaiting or in the process of acquiring the necessary elements of their adult self. Children are different from adults. Childhood is a distinct period in a human lifespan, characterised by its own forms of thinking and behavior. These statements may seem obvious and incontrovertible, now that we have stated them clearly in black and white, but they have remained unrecognised for too long. This absence of recognition did not really matter that much when the objective of intervening in the lives of children was to 'do unto them' or to exert some kind of retributive treatment. If, however, the objective is to work

with children, to improve their life experiences and to enhance their achievement of positive outcomes, then recognising the unique (and changing, see XXXXet al 2020) character of childhood is both essential and fundamental. Essential and fundamental because doing so greatly enhances your prospect of success (and, by implication that of the child) and because failing to do so condemns you and the children you work with to repeat the failures of the past. Moreover, it is no longer morally or ethically acceptable to do things to children without their engagement and consent. It is not only an expression of best practice to engage effectively with children, to listen to and act upon their voices, it is now a moral and ethical imperative to listen to act upon the voices of children.

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