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# Time to get it right:

Enhancing problem-solving practice in the Youth Court





# Foreword

By Tim Bateman



Over the past decade, a renewed – and welcome - focus on diverting children from the youth justice system has led to substantial declines in the number of children subject to formal criminal justice sanction. Between 2009 and 2019, proven offending by children fell by more than three quarters. Nonetheless, a considerable number of children continue to find themselves before the criminal courts: in the past year, almost 30,000 were subject to court proceedings, the large majority in the youth court. Moreover, it is clear that this group are particularly vulnerable, characterised by backgrounds of disadvantage and extremely high levels of need.

In recent years, the idea that the youth court should be an arena for solving children's problems – ensuring that appropriate provision is in place to reduce the likelihood of further offending and victimisation – rather than a site of punishment for its own sake has gained increasing traction. The fundamental human rights tenets that children appearing before the court should be able to participate fully in proceedings, understand what is happening to them, and feel that their voices are heard, are now widely understood. Yet we know remarkably little about what happens in the youth court, the extent to which a problem-solving model has emerged, and the nature of children's experiences. Expanding knowledge in these areas is an urgent task if the Youth Justice Board's vision of a youth justice system that incorporates a 'child first' philosophy is to be realised.

This report, by the Centre for Justice Innovation and the Institute for Crime and Justice Policy Research, is accordingly extremely timely. It enhances considerably our understanding of current youth court practice, makes a major contribution to the evidence-base and provides a benchmark against which future progress towards a child friendly youth court can be assessed.

The research finds cause for concern. The high level of needs of the cohort of children notwithstanding, support services to enable courts to solve problems are in many cases under-resourced. As court throughput has fallen, delays have increased exponentially and the reduction in youth court sittings has been associated with a loss of expertise as sentencers' involvement in youth proceedings has become less frequent. The experiences of children are also grounds for unease: many court rooms are better suited to trying adults and engagement between magistrates and those who appear before them is often limited. Children's participation remains an aspiration rather than a reality in most cases.

There are nonetheless grounds for optimism. Where informal reviews of children's progress on statutory supervision have been introduced, they provide opportunities for better relations, and shared understanding, between magistrates and the children they sentence. There is widespread recognition of the urgent need to reduce delays in the processing of children and a broad consensus that the inadequacy of services for vulnerable children must be addressed. Most encouragingly, there is an appetite among practitioners to embrace a problem-solving ethos. The evidence in the current report, and the realistic and practical recommendations derived from it, lay the basis for ensuring that such aspirations, for a youth court that befits a 'child first' youth justice system, are not dissipated.

The Covid-19 pandemic, which hit just as this report was going to publication, adds an additional dimension to the challenges outlined herein. With the strains on the system noted in this research only exacerbated by recent events, this report will play an important role in helping understand how to get the system working effectively once more. More importantly, it helps us understand what we need to do to make sure that we do more than simply restore things to how they were on the eve of the crisis.

## Tim Bateman

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We would like to thank all those who gave up their time to be interviewed for our study. We are especially indebted to the youth offending services in our fieldwork sites who assisted the research throughout, and to the court staff who facilitated our court room observations. We are grateful to the Judicial Office and Her Majesty's Courts and Tribunals Service for supporting the research and facilitating access to the courts, and to our Advisory Group for their guidance and input. Our special thanks go to the young people and their families and the victims of crime for sharing their experiences with us.

Finally, we would like to thank the Nuffield Foundation<sup>1</sup> for funding this research and for kindly allowing us to use their offices for research meetings and events as part of this project.

Centre for Justice Innovation  
Institute for Crime and Justice Policy Research

The Nuffield Foundation is an independent charitable trust with a mission to advance social well-being. It funds research that informs social policy, primarily in Education, Welfare, and Justice. It also funds student programmes that provide opportunities for young people to develop skills in quantitative and scientific methods. The Nuffield Foundation is the founder and co-funder of the Nuffield Council on Bioethics and the Ada Lovelace Institute. The Foundation has funded this project, but the views expressed are those of the authors and not necessarily the Foundation. Visit [www.nuffieldfoundation.org](http://www.nuffieldfoundation.org)



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# Summary

## Background

In the last 10 years, there has been a 75% decline in cases coming into the youth court, caused by both falls in youth crime and the youth justice system's success in diverting eligible cases away from court. However, while there are currently fewer court-involved young people, they tend to have more significant welfare and other needs as well as more serious offending profiles than they did a decade ago.

Having fewer court-involved young people to work with gives the youth justice system a golden opportunity to concentrate its energies on further reducing reoffending and preventing future harm. To that end, the Carlile Inquiry in 2014 (in which the current Lord Chancellor participated), the Taylor Review in 2016 and the Lammy Review in 2017 all advised that youth court practice should become more 'problem-solving', to better address children's underlying welfare needs.

## Missed opportunities

Our research follows on from these reviews. It looks specifically at current youth court practice through the lens of evidence-led problem-solving justice. It does this by focussing on the procedural fairness of youth court hearings; the specialism of youth court practitioners; how multi-agency youth offending services provide collaborative interventions and supervision to court-involved children and young people; the extent to which youth courts engage in judicial monitoring post-sentence; and the operational environment surrounding youth court practitioners.

Fieldwork was conducted in three sites across England, comprising five youth courts and associated youth offending services, between February and October 2019. During our research, we came across many dedicated practitioners who were committed to improving the support for children and young people appearing in court, and we saw examples of creative and innovative practice being developed locally. One site was trialling a form of post-sentence judicial monitoring (of the type recommended in the Carlile and Taylor reviews) to provide informal, YOS-managed review hearings for young people on Youth Rehabilitation Orders (YROs). A second site was preparing to pilot a similar approach, in which magistrates, in partnership with the YOS, will hold informal, monthly reviews of YROs.

However, we also observed practice which fell short of what is recommended for the youth court: long delays, especially in cases coming to court; lack of availability of professionals with the required specialisms for youth court; limited services to respond to children and young people's speech, language and communication or mental health needs; limited engagement by children's services (understandable given their resource constraints); and generally, a more difficult operational environment, resulting from the twin impacts of constant court modernisation (including court closures and mergers) and reductions in funding.

What we found far too often was an over-burdened system in which practitioners struggled to deliver the services required of them by national government. As a result, vulnerable children and young people coming before the court are not always receiving the treatment they need – making it all the more likely they will offend again.

## Time to get it right

What our research has shown is that youth courts need to be enhanced to change outcomes for the vulnerable young people who appear there. We are very aware that the Carlile, Taylor and Lammy review teams have been here before us. Our research has walked in their footprints and, sadly, we have seen that their calls for significant reform have remained largely unanswered. We think it is time to get it right.

### 1. Tackle pre-court delays and maximise diversion opportunities pre-court

There is urgent need for action to address the delays between offences and the commencement of court proceedings. These delays impact on everyone, including victims, witnesses and defendants. A key problem is delayed charging decisions by the police, which were also shown to disrupt children and young

people's own rehabilitative efforts. While we found strong support for out-of-court resolution of children and young people's cases (and strong support for victim involvement and restorative justice in these disposals), we also found evidence of cases still coming to court that should have been resolved out of court.

We recommend that (i) Her Majesty's Inspectorate of Constabulary, the National Police Chief's Council and the Home Office develop a protocol which limits the amount of time children and young people can be kept under investigation before a charging decision is made (though there may need to be exclusions for the most complex cases); (ii) we recommend that the Youth Justice Board should publish clear national guidance on effective, evidence-based point-of-arrest diversion and out-of-court disposal practice.

## 2. Improve the procedural fairness and specialisation of youth courts

We found that more can be done to improve the procedural fairness and specialisation of youth court hearings – specifically, by improving the court layout and the communication skills of magistrates to encourage engagement between children and young people and the bench, and strengthening the youth court specialism of defence advocates.

We recommend that (i) Her Majesty's Courts and Tribunal Service (HMCTS) set a goal that all youth court cases should be heard in adapted courtrooms by the end of this parliament; (ii) the Solicitors Regulation Authority and the Bar Standards Board develop a set of standards for accredited training in youth advocacy; (iii) the Legal Aid Agency enables advocates who have completed that accredited training to claim higher rates of remuneration, as applies in a number of other specialist areas; (iv) the Judicial College develop a suite of training resources for youth court magistrates including video guides to good engagement practice; (v) the senior judiciary set a clear expectation that youth court magistrates and judges engage in continuous, monitored professional development.

## 3. Bolster services to improve collaborative supervision and intervention for vulnerable children and young people

The Youth Offending Services (YOSs) remain a bedrock of youth court problem-solving, providing multi-agency supervision and intervention. In our work, we found consistent support for their multi-agency and child-centred approach. However, we also found that shortages in specialist mental health and wider welfare provision, and the inconsistent engagement by children's social workers (common themes in a long line of reports on youth justice) is undermining the provision of integrated support for vulnerable children and young people.

We recommend that (i) Government urgently raise the level of spending on specialist support for vulnerable children and young people to better meet demand; (ii) the Department for Education and the Association of Directors of Children's Services ensure that children and young people in local authority care are accompanied by a social worker when attending court; (iii) youth courts should be encouraged to use existing powers to order the local authority children's service to investigate whether a child is at risk of suffering significant harm.

## 4. Extend and evaluate trials of the innovative judicial monitoring 'problem-solving' review model

In line with the evidence base on problem-solving justice, a key recommendation of the Carlile, Taylor and Lammy reviews was for the court to regularly review, post-sentence, how children and young people on community sentences were progressing. While there has been no nation-wide adoption of these recommendations by Government, we did find areas using informal, review hearings which include magistrates, for young people on Youth Rehabilitation Orders.

We recommend that the Youth Justice Board extend the use of these reviews to more pilot sites and assess their impact through an independent evaluation of pilot projects.

In addition, the Ministry of Justice should give these pilots the powers to review Youth Rehabilitation Orders to check on children's progress and amend sentences where necessary, by extending Schedule 1 paragraph 35 of the Criminal Justice and Immigration Act 2008.



## 5. Improve the operating environment to guarantee fairer outcomes

This report was due for publication just as the Covid-19 pandemic hit the UK. It is too early to know the full impact that this will have on our court system, but we do know that coronavirus is already significantly changing the way court proceedings are being heard - for instance it has led to an accelerated use of remote hearings. These experiences will undoubtedly shape future discussion about how the system is restored post Covid-19. This moment presents an opportunity to reform and improve the system, and this report will be a vital resource for understanding how to do this.

The HMCTS programme of court closures and cuts to funding for local authorities have undermined the relationship between youth justice agencies and the court. More broadly, we have observed the lack of a national strategy focussed on improving the quality of justice in youth court. Moreover, it is unclear which agency or set of agencies sees it as their job to improve how youth courts operate.

We recommend that (i) the Ministry of Justice and Department for Education use the next Spending Review to ensure that youth justice and children services are adequately resourced; (ii) the Ministry of Justice commissions an independent review of the impact of court closures and bench mergers on the quality of youth justice; (iii) the Ministry of Justice, HMCTS and the senior judiciary identify and resource a single Government body to be responsible for identifying, sharing and promoting innovation and better practice in youth courts.

This Government, elected with a substantial majority in December 2019, has a real opportunity to make a bold move to enhance how our courts deal with young people's offending. In doing so, the Government can improve outcomes for some of the most vulnerable and marginalised individuals in society and protect victims from greater harm and give them a bigger voice in justice. But they need to get it right this time.

This report was due for publication just as the coronavirus pandemic struck the UK. Covid-19 has already had a profound impact on individuals, families, and the systems examined in this report. With an accelerated move towards remote hearings in our courts, concerns regarding effective engagement and participation in proceedings are ever more present. Whilst the final analysis of how the crisis has affected the youth court has not yet been written, our hope is that this report will help better understand the system as it was operating, for better and for worse, on the eve of the crisis.

# Introduction

This report details the findings of a research project which was jointly undertaken by the Centre for Justice Innovation (CJI) and the Institute for Crime and Justice Policy Research (ICPR), Birkbeck, with funding from the Nuffield Foundation. The project examined current practice in the youth court, including how the court was meeting the needs of vulnerable young people. Specifically, we were interested in understanding current youth court practice and exploring the potential impact of practices aligned with problem-solving justice – an evidence-based approach<sup>2</sup> which seeks to hold people accountable and to help them to proactively engage with the court to address the factors driving their offending.

## The specialist role of youth courts

Youth courts in England and Wales are specialist magistrates' courts where cases concerning young people aged 10 to 17 years are presided over by district judges and specially trained magistrates. The youth courts deal with all but the most serious cases involving young people, accounting for 96% of such cases<sup>3</sup> and with cases up to a significantly higher level of seriousness than in the adult magistrates' courts<sup>4</sup>.

Youth courts are already subject to a range of adjustments intended to make them more suitable for young people. These include:

- Judges and magistrates with specialised training;
- Barristers with 'competencies' to work in youth court<sup>5</sup>;
- A court that is closed to members of the public;
- Automatic reporting restrictions;
- Less formal courtroom layouts (where possible) that allow parties to be on the same level and young people to sit outside the dock and close to their parents or supporters; and
- A Youth Offending Service (YOS) that has an important role in informing decision-making by the courts and overseeing court orders. YOSs are multi-agency teams – comprising of statutory partners and specialist professionals, ideally including at least one seconded police officer, probation officer, social worker, health worker and education worker, as well as dedicated Youth Offending Service officers.

This distinctive approach is underpinned by guidance which sets out key features of practice (summarised in Annex A, Table 1). In addition to the modifications to the traditional courtroom layout, emphasis is given to ensuring that young people – and their families or supporters – understand court processes and sentencing decisions. To this end, more direct engagement than is typical in adult court is encouraged between judiciary and young people.

## The purpose and range of sentencing in youth court

Sentencing in the youth court is intended to focus on the welfare and rehabilitation of the young person and to address underlying factors related to offending. To do this, the court relies on information from the YOS about a young person's background and needs but also its recommendations for sentence, including how the YOS can intervene as part of community supervision and what support from the YOS and from other agencies can be offered.

## YOUTH COURT ORDERS

### Community sentences

*Referral Order (RO)* – the child is required to attend a community panel which agrees a contract of interventions and reparation activities over a three to twelve-month period.

*Youth Rehabilitation Order (YRO)* – the order, of up to three years' duration, must include one or more requirements, such as a curfew, supervision, treatment (e.g. drug or mental health) or attendance at activities.

*YRO with Intensive Supervision and Surveillance (ISS) or Intensive Fostering* – may be given to children as an alternative to custody.

### Custodial sentences

*Detention and Training Order (DTO)* – a custodial sentence for 12 to 18-year-olds of between four months and two years in duration; half is spent in custody and half in the community.

## Shifting demands on the youth court.

There has been a significant decline in the size of the youth justice workload in England and Wales over the last 10 to 12 years. Recent data, for example, show that there were around 27,400 children proceeded against at youth courts in the 12 months ending March 2019, representing a fall of 75% compared to 10 years ago<sup>6</sup>. Contributors to the decline include the greater use of pre-court disposals to divert young people from prosecution, as well as falling crime levels. However, the paradox of this success is that those young people remaining in the system and appearing at youth court tend to be the most vulnerable and often have significant welfare and other needs as well as more serious offending profiles.

Looked after children, in particular, are over-represented in the youth justice system<sup>7</sup>, and factors that are commonly reported in the background of young people who come before the courts include economic deprivation, poor parental employment, low educational attainment, familial offending, experience of abuse and neglect and substance misuse problems<sup>8</sup>. Additionally, data suggest a high incidence of mental health problems and learning difficulties or disabilities, including challenges with speech and language<sup>9</sup> and significant numbers are defined as being persistently absent or excluded from mainstream education<sup>10</sup>.

The youth court and associated agencies have been subject to significant pressures over the last decade. Most notably, more than half of all magistrates' courts, in which youth courts are normally housed, have closed since 2010. Further, evidence from the Local Government Association (LGA) and from several national children's charities have highlighted significantly reduced funding available for youth and children's services and youth offending services. For example, figures provided in response to a parliamentary question suggest youth justice grants, which fund youth offending services, had decreased from £145m in 2010-11 to £71.5m in 2018-19<sup>11</sup>. Despite the reduced size of the youth justice cohort, the LGA has reported that local authorities were having to cover the shortfall in budgets, underlining the multiple and complex needs of those remaining in the justice system and the considerable support they require. Further, it was argued that such funding cuts would seriously impede efforts to protect young people from criminal activity, such as becoming involved in knife violence or "county line" gangs<sup>12</sup>.

## The potential for enhancing problem-solving in the youth court

The drop in the volume of youth court cases gives an opportunity to develop new and more effective approaches for this complex group of young people. Evidence-led 'problem-solving' justice could offer one such approach and could provide a particularly powerful way of delivering better outcomes.

The key components of problem-solving approaches are:

- specialisation to ensure that the cases are heard in specialised settings, including specially trained court professionals who have an understanding of the needs, risks, and assets of the target group and who hear the cases in dedicated, adapted sittings;
- procedural fairness to ensure that people feel that they have been decently and respectfully treated;
- working with other agencies to foster collaborative intervention and supervision;
- ensuring accountability for individuals' compliance with the court's instructions via judicial monitoring;
- focussing on outcomes by monitoring impact and continuing to innovate in response to changing circumstances.

In looking at whether youth court practice could be enhanced by problem-solving approaches, we do so in the acknowledgement that many aspects of youth court practice are already informed by problem-solving: - (i) a range of guidance emphasises that youth court practitioners ought to have specialist training in handling youth cases; (ii) youth court hearings place more of an emphasis on engagement with the child than adult court hearings (see Annex A, Table 1); (iii) the Youth Offending Services are multi-agency teams, providing collaborative interventions and supervision; (iv) the youth court ought to have focus on outcomes, given that the principal aim of the youth justice system is to prevent (re)offending by young people<sup>13</sup>, and the courts have a statutory duty to have regard for the welfare of children and young people<sup>14</sup>. The recently revised guidance for the sentencing of young people<sup>15</sup> promotes an approach that is child rather than offence-focused and centres on rehabilitation where possible. It recommends taking into account the background factors which contribute to offending and stipulates that sentencing must seek to avoid the “unnecessary criminalisation” of young people and provide an opportunity for them to learn from their mistakes.

There is clear backing for both enhancing the problem-solving nature of the youth court, as well as ensuring that what is required in national legislation and guidance is actually being delivered. Recent high-level, expert reviews on the youth justice system have highlighted wide support for ‘problem-solving’ from youth justice specialists and young people who contributed to these various reviews. The Carlile Inquiry in 2014 (in which the current Lord Chancellor participated), the Taylor Review in 2016 and the Lammy Review in 2017, all to varying extents, found that the framework around which youth court practice is organised could and should be strengthened and improved, through the greater adoption of problem-solving principles. In particular, they embraced different versions of the same concept: that the court (or court-like panels) should play an active monitoring role with court-involved children and young people after sentence.

The Carlile Inquiry (2014) recommends piloting problem-solving judicial monitoring in the youth court as a way to coordinate and review interventions and the support provided to address the welfare needs of young people following orders of the court<sup>16</sup>. It urged “piloting of a problem-solving approach in court for children, which would include judicial monitoring and continuity in cases, and powers to ensure children’s underlying needs are met.” The Taylor review focused on how problem-solving practices can hold local services to account and ensure “a level of local scrutiny of services for young people who offend that could never be achieved centrally”<sup>17</sup>. Judicial responsibility and continuity in the monitoring of cases are central themes. For magistrates, it is suggested that their continued attachment to cases will help to “deepen their understanding of the rehabilitative process” and it is proposed that the effects of this judicial input on the re-offending of the young people involved should be evaluated<sup>18</sup>. In a similar vein, the Lammy Review argued for Local Justice Panels to operate after findings of innocence or guilt that would “take place in community settings, have a stronger emphasis on parenting, involve selected community members and have the power to hold other local services to account for their role in a child’s rehabilitation”.

There has been little government commitment to taking forward any such recommendations on a nationwide basis from the Carlile Inquiry,<sup>19</sup> the Taylor or Lammy reviews to enhance these crucial aspects of the youth courts, and to date no centrally-driven promotion of problem-solving approaches in youth justice<sup>20</sup>. There remains great room for improvement.

## **Aims of the research**

The research aimed to explore current practice in the youth court, including how the courts are meeting the needs of vulnerable young people with a view to identifying challenges and opportunities to develop problem-solving practice.

Through this research, we examined:

- the profile of children and young people coming into court in the research sites (section 1);
- the pre-court process for cases coming into youth court (section 2);
- how current practice in the youth court, especially regarding specialisation and procedural fairness meets existing guidance and responds to the distinctive needs of young people coming to court (section 3);
- the interventions and supervision available from the multi-agency youth offending services and the relationships between courts and YOSs and others (section 4);
- the extent to which current practice is being enhanced by innovation in judicial monitoring, and the appetite that exists among practitioners for introducing these additional problem-solving approaches (section 5); and
- the wider environment in which they are operating (section 6).

# Methodology

## Research sites

Our research was exploratory and focused on the youth court and the associated youth offending services (YOSs) in three areas in England (see Box 2 for a description of the research sites). These sites were selected from 12 areas that expressed an interest in being involved in the research during preparatory work carried out for the project in 2018. Our final selection of sites was guided by a need for geographic spread, inclusion of both metropolitan and non-metropolitan locations, local aspirations to enhance and develop youth court practice (one of the selected sites was already testing a new approach), and a commitment to assist the research by providing data and participating in interviews.

From the outset, this project has been a collaboration between researchers and local practitioners who not only contributed to the research as interview respondents but also commented on research plans and interview schedules, provided feedback on local findings<sup>21</sup>, took part in an impact day to develop short and longer-term recommendations based on the research, and offered guidance about disseminating the research both locally and nationally.

### THE RESEARCH SITES

#### Site 1

- Is in a non-metropolitan county
- Has two youth courts, which – combined – sit one day per week (four other youth courts have closed since 2010)
- During 2018 these courts dealt with 843 cases
- The two youth courts share a panel of 16 youth magistrates; a reduction from 53 in 2013
- These courts are supported by one youth offending service

#### Site 2

- Is in a metropolitan area
- Research focusses on one of two youth courts in the area, sitting one day per week and serving three local authorities (two other youth courts have closed since 2016)
- During 2018, this court dealt with 3,188 cases
- The court shares a panel of 57 magistrates
- The court is supported by three youth offending services

#### Site 3

- Is in a metropolitan area
- Research focusses on two youth courts - one runs remand hearings three and a half days a week and trials two days a week. The other court holds a day of trials and a day of remand hearings weekly. Both courts have expanded their catchment areas to account for court closures
- During 2018 they dealt with 5,399 cases
- They share a single bench of 95 youth magistrates
- The courts are supported by one dedicated youth court team that was formed to manage court work for all the area's youth offending services

Permission for the research was given by the Judicial Office and Her Majesty's Courts and Tribunals Service (HMCTS), and ethical approval was granted by the Research Ethics Committee, School of Law, Birkbeck. Fieldwork activities were undertaken between February and October 2019 and comprised both quantitative and qualitative methods. During this time, we:

- collected and reviewed demographic and case data on young people appearing in youth court during the calendar year 2018, provided by the YOS teams, and court data for that time period provided by HMCTS;
- conducted in-depth interviews and focus groups with 56 practitioners, including magistrates, district judges, defence and prosecution advocates, legal advisers, YOS staff, and Victim Liaison Officers (VLOs);
- conducted in-depth interviews and focus groups with 32 lay people who had recent contact with the youth court, including young defendants, their family members and victims;
- undertook observations over 17 days of youth court sittings presided over by both magistrates and district judges;
- undertook observations across 3 days of youth referral order panels and youth rehabilitation order reviews.

The Judicial Office nominated a district judge and three magistrates for us to interview in each fieldwork site – selected because they sat regularly in the local youth court. As noted, local YOS staff were partners in the research, and they participated in interviews and assisted us in recruiting further court staff and legal practitioners to the study. YOS also helped put us in contact with young people and their families and with victims of crime.

## **Advisory board**

Throughout the research process, we presented findings to an expert advisory board. Details of the membership of that board can be found at Annex B.

## **Analysis**

The quantitative data gave a 'snapshot' of the needs and vulnerabilities of the young people who populated court caseloads in the research sites, including details of the type of offences coming to court. Our analysis of interview and observational data sought to draw out common themes across sites regarding current professional practice in the youth court, including how practice has evolved in response to court re-structuring. We focused on how young people were being supported to understand and engage with court proceedings, and the extent and nature of specialist support available to address their offending and other needs. We asked about local developments and innovations and explored the scope for and interest in potential new developments that could enhance problem-solving practice. Our interviews with young people and their families gave insight into lay experiences of the youth court against which to compare professional accounts.

Our research was small-scale and focussed, and while we make no claims that our findings are representative of practices or views of youth court and YOS practitioners more widely, many of the issues that were raised chime with national discussions and the wider research literature on youth courts.

## **Structure of report**

In the first section, we provide a brief description of court-involved children and young people in the research sites, including professional perceptions about how profiles have changed over recent times. We have then organised our findings on current practice in youth court to reflect a young person's journey through the system – first coming to court (section 2), then procedural fairness and the court hearing (section 3). Section 4 looks at collaborative interventions and supervision coordinated by the youth offending services. Section 5 examines existing and planned problem-solving innovations in the sites, and section 6 explores the wider nature and quality of relationships between courts and the youth offending service and the environment they are operating in.

# 1. Young people appearing at court

## Demographics and needs of young people appearing at court

The children and young people appearing in court in our research sites during 2018 were predominantly male (range = 84%-89%). Most were aged between 15 and 18 years<sup>22</sup>. The ethnic profile was based on self-reported data collated by YOSs and differed according to the make-up of the local population where the court was based. However, a comparison of the ethnicity of the young people appearing in court in the research sites against census data on the ethnicity of young people (aged 10-17 years) in the respective local authority areas, revealed an over-representation of Black or Black British young people in the court population<sup>23</sup>.

The most common offence type dealt with at the courts in our research sites during 2018 was violence against the person (accounting for around a third of offences in one site and 12% and 18% in the other two sites). National data show violence against the person offences by young people have been steadily increasing as a proportion of all offences over the last 10 years, and now account for 30% of all proven offences<sup>24</sup>.

Information on the backgrounds of young people appearing in court collected from **YOS ASSET Plus Assessments**<sup>25</sup>, for the calendar year 2018, underline the vulnerabilities of the young people coming before the courts. While these assessments are largely based on practitioner judgement, and the kinds of evidence used to determine vulnerability and need or to raise concern may vary locally, data support the national picture of the youth court cohort as complex and disadvantaged. Across the research sites:

- The proportion of looked after children (LAC) ranged from 11% to 17%;
- A NEET<sup>26</sup> status was recorded for nearly half of young people in one site and for approximately one fifth in the other two sites;
- In two sites where data were available, practitioners recorded concerns about mental health in over half of the young people they were assessing, with contact with mental health services – also available for two sites – at 28% and 40%;
- Speech, language and communication difficulties<sup>27</sup> among the court cohort were highlighted for two sites at 50% and 73%<sup>28</sup>. In the third site, assessment data noted where there was evidence of special educational needs (23%);
- In the two sites which provided data, a risk of child sexual exploitation (CSE) was flagged for 14% of young people in both areas, and evidence of gang association for 6% and 24%<sup>29</sup>.

## Re-offending rates for court-involved children and young people

The total number of children and young people sentenced at youth court who are subsequently re-convicted<sup>30</sup> has decreased from almost 67,000 in 2008/9 to 15,600 in 2017/18. This means that the re-offending rate (the proportion of children and young people who were sentenced at court and who were then re-convicted) has been subject to fluctuations over the past 10 years. The data sources used to calculate the re-offending rate have also changed during this period.

In general, however, the re-offending rate for court-involved children and young people has shown a modest decline over time, from 55% in 2008/9 to 45% in 2017/18 (with a sharp 3 percentage point decrease from 2016/17 to 2017/18). While this is welcome, there has also been an increase in the average number of re-offences each re-offender has committed, from 3.6 offences in 2008/9 to 4.3 in 2017/18.<sup>31</sup>



## Practitioners' perceptions of the changing youth court cohort

We asked our professional interviewees to describe, in general terms, the young people they were seeing in court, and to highlight any changes they had noticed over recent years in their backgrounds or offending profile. Shifts in arrest, charge and prosecution practices, including the increased emphasis on pre-court diversion for more minor offending among young people, was noted as an obvious cause of the greater seriousness of cases and greater complexity of needs now being dealt with in youth court: *“Overall, we are seeing offences which are much more serious than 10 or 15 years ago”*. Additionally, comments were made about changes in crime patterns, particularly with respect to an apparent increase in knife crime and gang-related activity, both currently national concerns. There is some evidence in the national youth justice statistics to support such perceptions; data for 2017/18 show a year-on-year increase in knife and offensive weapon offences among young people since 2014<sup>32</sup>; although the latest data (2018/19) show a 1% decline since the previous year<sup>33</sup>:

*“There seems to be less, thankfully, young people coming through the courts because there has been a massive change in how young people are dealt with. A greater emphasis on out-of-court disposals so they don't get to court... However, the ones that are coming through are more serious and more challenging than in years gone by, I'd say.”* [YOS]

*“More knife crime and gang stuff. The offences are definitely more serious, scarier really. There's been a big increase in youth violence and knife crime and so many of the cases we hear have got a violent element to them.”* [Magistrate]

The descriptions provided by our interviewees of the young people they were seeing in court, highlighted their complex and difficult family backgrounds, which often featured inter-generational offending and isolation from mainstream education or wider training or employment opportunities. Further, despite efforts to curb the over-representation of looked after children in the youth justice system<sup>34</sup>, this trend appears to persist, which was said to reflect, at least in part, the criminalisation of disruptive behaviour of young people in their care homes:

*“They are usually in care or there's some social service involvement. There's a lot of domestic abuse in their homes. But there are also some from families where the child has just made a terrible mistake. But most have come through the care system or there's been some interaction with the care system... [Court] workload has gone down but the backgrounds of those you're seeing haven't changed. [Often] from families which themselves have been through the criminal justice system.”* [District Judge]

*“You still get a lot of kids in care. Damage and assaults within the care homes still happens quite regularly.”* [Defence Solicitor]

*“The majority are excluded from school and have been in contact with [YOS] before with out of court disposals. A lot are NEET or are having difficulties at school. There may be drug issues with the young person, or their parents and families may be well known to the YOS.”* [YOS]

## 2. Coming to court

Here, we consider the pre-court process by which cases come into youth court, following an arrest and a charge. We look at timeliness (the time taken by the criminal justice system to bring the case to court and arrive at a conclusion) and we highlight the evidence we collected on the opportunities for earlier intervention and diversion.

### Timeliness

We were given the clear impression – from our interviews - that swift justice was not always delivered and there could be long delays between a young person being charged with an offence and the case coming to court. There are the obvious effects of delay on the accuracy of witness testimony and the prolonged emotional distress incurred for any victim involved, but delay was also discussed in terms of its impact on the fairness of process for the young defendant. For example, during one observation, a district judge said of a case: *“This is over a year old and of course [young person] keeps having birthdays; this isn’t fair on him”*. During another case we observed, a different district judge questioned an 18-month delay and berated the prosecution for it, before advising the young person and their lawyer to raise a complaint for abuse of process. Such concerns were echoed in our interviews with practitioners:

*“Serious cases take an inordinate time to come to court. Typically, a serious sex case with very young witnesses where the alleged offence may have taken place 12 or 18 months before. It could be questioned how there can be justice in that. First in asking the victim to recall it; how accurate can they be? How fair is the process in asking them to relive it? Is it re-victimisation? Equally can the defendant expect a just outcome. Can they get a fair trial? And at age 15 or 16, it’s a bit like your dog making a mess on the floor and you kick it a week later.”* [District Judge]

In two sites, police use of extended release under investigation, coupled with postal requisition,<sup>35</sup> was identified as a cause of delay and as potentially disruptive to the rehabilitative process; concerns have been raised elsewhere about difficulties young people may have in understanding requisition documents, particularly where they do not have the help of a parent or guardian<sup>36</sup>. It is welcome that, at the time of writing, the Home Office was conducting a consultation that - among other areas - looked at current arrangements regarding unlimited timescales for release under investigation<sup>37</sup>. Postal requisitions are used across the criminal justice system and were introduced under the Policing and Crime Act 2017 which reduced the time suspects could be held on bail. This has resulted in greatly increased numbers of people ‘released under investigation’. Postal requisitions were considered disruptive because cases often made their way to court in an order that diverged widely from the chronology of the offending, such that, for example, a young person could be sentenced for a recent offence while several much earlier offences had not yet been dealt with by the court. While data on timeliness in youth court was not available, we do note that the public data concerning these three areas shows that, in the last five years, cases took an average of 188 days from offence to completion in the last year compared to 150 days five years ago. Additionally, HMCP’s recent review of how the Crown Prosecution Service handles serious youth crime highlighted the negative impact of postal requisitions, and found that ‘many of the lengthy delays in cases reaching the CPS did not appear warranted by the nature of the case made’. Their report makes recommendations to ensure that youth work is dealt with promptly.<sup>38</sup>

YOS staff explained how this delay could negatively affect a young person’s progress, giving an example of someone who had been doing well on an order being recalled to court via postal requisition for a previous offence which then affected his motivation to comply. In a similar vein, a lawyer said of the effects of delays in cases coming to the court: *“If you had your own kid and they do something wrong, you don’t punish them in two months’ time when you’re getting on really well with them... it’s ridiculous”*. It was also pointed out that young people can be *“very different individuals”* by the time they get to court, especially if they have distanced themselves from peers or re-engaged with education, and this is not always taken into account in sentencing.

Professionals working with victims of crime identified problems caused by long delays in cases coming to court as undermining trust in the process. Long delays commonly frustrate victims and can give the impression that their case is not being taken seriously. A legal advisor noted that delays on the day are *“horrendous”* for young victims and witnesses especially. Furthermore, it was pointed out that delays can affect their recollection of events and thereby calls into question the fairness of the process.

Long delays were also highlighted repeatedly in our interviews with victims. For example, one noted that their court case was five to six months after the offence had taken place: *“I wasn’t happy with the delays and just go home and all that. I just found that to be a joke to be fair. It was just like nothing was taken serious”*. Delays also continue after sentence – a victim was awarded a sum of compensation by the court, payable by the defendant. *“But I still haven’t been paid”*.

### **Recommendation 1: Tackling pre-court delays**

**There is urgent need for action to address the delays between offences and the commencement of court proceedings. These delays impact on everyone, including victims. A key problem is delayed charging decisions by the police, which were also shown to disrupt the rehabilitative efforts of young people. We hope that the ongoing Home Office Consultation regarding release under investigation will allow for progress to be made on these issues. We recommend that:**

- Her Majesty’s Inspectorate of Constabulary, The National Police Chiefs’ Council and the Home Office develop a protocol which limits the amount of time young people can be kept under investigation before a charging decision must be made (though there may need to be exclusions for the most complex cases).

### **Out-of-court disposals and diversion**

Through our interviews and observations, we identified inconsistency in which cases were coming before the court. Some practitioners highlighted recent cases that they felt should not have been dealt with by the court. One example involved a young person shoplifting two cans of soft drink. As the defence solicitor involved pointed out, *“if legal advice was sought at the police station, this would have been dealt with there and then”*. Instead, the appropriate adult advised the young person to give a no comment interview and the case was escalated to court. In another instance, the defence lawyer expressed dismay that the case had been brought to court, requesting it be adjourned for consideration for an out-of-court disposal. In another case, the defence lawyer noted that, *“had he been better advised at the police station, I think he would have received a caution”*.

We witnessed a small number of cases where young people in school and in care were inappropriately in court for minor matters. Hearteningly, all the court professionals who we spoke to tended to agree that these cases should have been diverted, and efforts were made not to over-criminalise the child. In one area where the YOS had a specialist court team, they felt they were not only adequately prepared for each hearing, but were also able to flag cases that had been inappropriately allocated to court: *“Experience means we are better able to spot, for example, a case which should be handed back for out-of-court disposal”*.

Importantly, we found strong support for, where possible, ensuring that young people received point-of-arrest diversion or out-of-court disposals. A YOS interviewee said, *“we always say we feel we get a lot better results and satisfaction from victims with out-of-court disposal”*. We were also told in some areas that restorative justice was regarded as an important option for diverting cases away from court. A victim we interviewed had a positive experience with restorative justice facilitated by the YOS. They informed us that they had written to the young person because they wanted *“him to understand the impact his actions had on me. It’s about knowing that behind the person you’ve assaulted is a real human being, not just something”*. A face-to-face meeting was then arranged which the victim found very helpful: *“It just blew my mind really. I became his champion almost; I went to all his panel meetings afterwards”*.

### **Recommendation 2: Maximising opportunities for pre-court diversion**

**We found strong support for ensuring that children and young people’s cases should be resolved out of court, especially if this could be done through point-of-arrest diversion which helps children and young people avoid a criminal record for low level offences. We also found strong support for victim involvement and restorative justice in these disposals and note that victims and practitioners commented on how these provided better outcomes than court. We recommend that:**

- The Youth Justice Board should publish clear national guidance on effective, evidence-based point-of-arrest diversion and out-of-court disposal practice.

### 3. The youth court hearing: Specialisation and procedural fairness

Here we describe the youth court hearings. First, we look at specialism, particularly the specialised settings in which youth court hearings are held, and of the specialism of the legal and YOS practitioners in youth court. Given the importance of the judiciary in the court hearing, and that youth specialism for judges places a significant priority on their engagement with the young person, we look at judicial practice in the procedural fairness section below. The evidence on problem-solving court practice shows that they tend to take place in specialised settings (often housed within mainstream court buildings), are staffed by specially trained court professionals, and have adapted procedures<sup>39</sup>.

Second, we look at the procedural fairness of the youth court hearings. Procedural fairness describes the experience of feeling decently treated by a criminal justice or other decision-making process. Evidence shows that when members of the public perceive the criminal justice system as operating fairly, it can increase their belief in the legitimacy of the system, making them more likely to comply with court orders and potentially less likely to reoffend in future<sup>40</sup>. The evidence on problem-solving court practice shows that they emphasise the courts' role in making justice feel fairer and more transparent. By engaging with people with neutrality and respect and by giving them a voice, problem-solving practice places a strong emphasis on making a material impact on defendants' perceptions of fair treatment<sup>41</sup>.

We note the various practices designed to enhance procedural fairness and help young people understand and engage with the court process, including how they perceived they were treated, and we highlight where these are inconsistently applied or undermined by the wider factors at play.

#### Specialism of the youth court

##### Attending youth court

People attending youth court experienced long delays on the day of their hearing, something which one interviewee described as just one aspect of the “*structured mayhem*” of the court. In all the sites, young people were told to attend from the beginning of the court sitting rather than being given a specific time. A defence lawyer said this practice is a “*disaster*” and means that by the time many actually come into the courtroom they are irritated and less likely to respond positively to court staff.

A legal adviser also raised the issue of “*over-listing*”<sup>42</sup> which they said creates significant waiting times and often adjournments. These ‘*on the day*’ delays are seen to be “*especially challenging*” for young people and can result in them leaving court before their hearing, necessitating warrants and creating additional difficulties for them and for the court.

##### Specialised courtroom layout

The Magistrates Association's youth protocol sets out a desirable set of standards for the youth court environment. It suggests that young people should be kept separate from adults attending court, with separate entrances and waiting areas. In the courtroom itself, it highlights the value of a less formal arrangement, including having magistrates on the same level as other participants rather than on a raised bench, and urges against seating young defendants in the dock. Of the five courts included in our research sites, three had separate entrances to adult courts, four had separate waiting areas and two had adapted courtrooms for young people, with seating arranged on one level and/or in a conference-room style and without a dock,

Most of the practitioners that we spoke to saw the need to re-configure these spaces and thought engagement was better – compared to a traditional setting – when an adapted youth court was available:

*“You’ve seen the courtroom set up in a less formal way so it does feel more like having a chat than being in a courtroom, although when they’re being sentenced it’s more formal but I do think that helps the youths, having everyone sat down around a table and talking. I think it is then easier for them to open up a bit more.”* [Legal adviser]

Some also noted that the court estate had failed to make progress towards the agreed more conducive layout for the youth courts:

*“The youth court needs to be in a separate building or properly cut off from the adult court...Everyone tries to do their best but you’re taking them into a courtroom which is really designed for adults. And really the statutory approach to sentencing children is a focus on welfare and rehabilitation, and I think sticking them in an adult courtroom in a magistrates’ court is not good because it just pushes them towards disengagement from the outset.” [Judge]*

*“A lot of the youth courts haven’t taken on some of the recommendations from almost, well over twenty years. We don’t have to have this formal, imposing environment, we could have a very relaxed environment and still have good outcomes, and it was about being child friendly...I just don’t think it’s appropriate for all young people, particularly if they are particularly young, [or] there are speech and language difficulties.” [YOS]*

However, a minority of practitioners said they welcomed the formality of the traditional courtroom for signalling the seriousness of the situation to young people, *“because it isn’t just a trip in the park”* and *“there needs to be a step at some point when they realise that they’ve reached the court and the layout of the court is all part of the theatre”*.

We asked some of the young people we interviewed about their experiences of being in a traditionally laid out courtroom<sup>43</sup>. Their descriptions (below) suggest a sense of detachment from proceedings (echoed when they discussed their understanding of court processes), which appears heightened by where they were seated in court, including in the dock and in relation to the judge or magistrates and their lawyer:

*“The judges are higher up and I thought they were kind of looking down on me. And then everyone else was facing the front and I was facing the side. Nobody was looking at me, and if they were obviously looking at me, if that makes sense, because they had to turn their heads to look at me. It would have been nice to have my back turned so people couldn’t come and look at me and I could just talk to the judges, but everyone could still hear what I was saying.”*

*“My solicitor, she was a really nice woman, and I wanted to speak to her, but she was sitting in the complete opposite side of the room to me. I was sitting alone and everyone else was away from me.”*

[In the dock] *“I could hear certain things, obviously, but I didn’t hear everything [and] “I was in the dock. I can see the whole courtroom, but I can’t speak to anyone.”*

However even where an adapted youth court was available locally, access to this was not guaranteed. For example, we were told that in one site – where one of the two local youth courts had an adapted layout – responsibility for youth court listings had been assigned to the police who were meant to take note of a young person’s address and send them to the youth court nearest to where they lived. Listing was described as a bit of a ‘lottery’ and not based on any consideration of a young person’s needs. As a YOS worker explained, *“cases are [sent] to the next available slot by police so there is no control over who gets sent where and no possibility of ensuring a vulnerable or anxious young person could be assigned to the [adapted court]”*.

### **Recommendation 3: Courtroom layout**

**Hearing youth court cases in adapted courtrooms can support engagement in and understanding of the court process. We recommend that:**

- HMCTS develop practical guides on adapting courtrooms for the needs of young people
- HMCTS set a goal that all youth court cases should be heard in adapted courtrooms by the end of this parliament and should invest in adapting existing facilities as well as considering how this goal can be pursued as the court estate is reshaped.

## Legal representatives

Most professionals in the youth court (magistrates, YOS workers and legal advisers) must undertake some specialist training to work there. More recently barristers are required by their professional body – The Bar Standards Board (BSB) – to have certain specialist skills and knowledge to undertake case work in the youth court. This involves registering with BSB if they are working there and ‘declaring’ that they have the necessary competencies to do so. However, it is not clear how rigorously this new rule is monitored or whether this amounts to formal accreditation. Further, defence advocates in youth courts tend to be solicitors rather than barristers and, as yet, there are no specialist requirements for solicitors to do youth court work. Similar issues have also been highlighted in HMCP’s review of how the Crown Prosecution Service (CPS) handles serious youth crime. They make several recommendations, including reviewing the criteria for becoming an approved youth offender specialist, and ensuring that specialist youth training is delivered.<sup>44</sup> One solicitor we interviewed described his work in youth court as a “very much a learn-on-the-job type of situation”. The quality of legal representation for young people was thought by other court practitioners to be ‘patchy’ and in the words of a YOS worker, “solicitors tend to deal with adults and will just be baffled”. When another YOS worker was asked what they would prioritise to improve practice at youth court, they suggested greater awareness among defence solicitors of special educational needs (SEN) amongst young people attending court to improve the way they communicate with their young clients.

However, where solicitors were working regularly in the youth court, this was considered to be less of a problem. A magistrate, for example, acknowledged practice was much better when solicitors were familiar with youth court procedure:

*“I can think of two to three solicitors who deal with youth work, possibly exclusively as we regularly see them, who certainly act in the best interests of their clients... They’ll address us in such a way that we know what they mean and they know what the likely outcome is as well. I think that relationship works extremely well ...But there are too many that don’t.”*

A local firm in one site appeared to be taking steps to ensure that there was some consistency in the defence solicitor assigned to a young person’s case. This was reported to be unusual and by no means standard practice: “Unlike other firms who just allocate who’s available, we’ve always thought it’s important to have a regular face who they know and who understands young people”. A YOS worker underlined the importance of solicitor expertise – and commitment to working in the youth court - in the following example, showing how this effects a young person’s experience at court:

*“The solicitor who knows this young person really well has got something else that morning and felt it’s only fair to her that she is there to represent and support her. I thought that was hugely positive, that they’re taking into account all her special educational needs, that she’d benefit from that person she’s got the relationship with, who understands that, being in court with her, rather than just another duty solicitor from that firm.”*

### Recommendation 4: Youth court specialism of legal practitioners

**More needs to be done to incentivise defence advocates working in youth court to develop their skills in communicating with young people and their understanding of the distinctive features of the youth court. We recommend that:**

- The Solicitors Regulation Authority and the Bar Standards Board develop a set of standards for recognised training in youth advocacy.
- The Legal Aid Agency should enable advocates with qualifications in youth court practice to claim higher rates of remuneration, as happens in a number of other specialist areas.

## YOS Court Teams

Some re-organisation of the YOS in the research sites included the creation of dedicated court teams, which allowed YOS staff to develop more specialist skills in dealing with court-involved young people, including preparing relevant and detailed information about the young person for the court and cultivating good working relationships with youth court staff.

## The court hearing and procedural fairness

Supporting young people to understand what is happening in court and encouraging them to engage in the proceedings is a key element of professional practice in the youth court as set out in a range of guidance, including the Youth Court Bench Book and the Magistrates' Association Youth Protocol<sup>45</sup>. This emphasis on young people's experience of, and participation in, the courtroom aligns with the evidence base around what is known as "procedural fairness". Research<sup>46</sup> has identified four key drivers of procedural fairness:

- understanding the process that is taking place;
- having a voice in the process;
- feeling that you have been treated with respect; and
- trusting the neutrality of the process.

## Young people's understanding of the court hearing

We identified a range of strategies which professionals had employed to support young people's understanding. YOS workers told us they had designed 'child-friendly' leaflets outlining court processes and the role of different court professionals. In one site, a speech and language specialist had reviewed these written materials to ensure their clarity for young people with communication needs.

The court professionals we interviewed showed a keen awareness of their responsibilities to secure young people's understanding of proceedings. For example, a magistrate noted that:

*"The whole ethos really of being a youth magistrate is that when you're talking to a young person, legal language is quite alien, so the focus is trying to ensure that they understand what is happening by explaining things."*

And another described her general approach as "no long words, [and] simple sentences to make sure they are actually following and can engage with the proceedings". This was in evidence during our observations too, with court professionals largely making efforts to use accessible language and explain processes. One example was a district judge carefully describing to a young person what each bail condition meant in terms of the impact it would have on his day-to-day life.

Guidance places a particular focus on supporting the understanding of young people attending court for the first time, suggesting that magistrates should explain the roles of each court professional. In two sites, there were YOS protocols in place for identifying first time court attendees and targeting them with information about what to expect in court. In one site, this initiative had been introduced following a local drive to learn more about young people's experiences at court, which had highlighted that many found the process daunting. YOS staff were also often present outside courtrooms to ensure young people and their families or carers had opportunities to ask questions about proceedings.

However, there were departures from this recommended practice. For example, young people were at times asked, "Do you understand?", a question to which they may justifiably be reluctant to say "no" when the person asking is a judge or magistrate. Similarly, jargon – that should usually be avoided in Youth court<sup>47</sup> – was sometimes used, for example acronyms or unfamiliar terms such as 'adjournment', 'remand', 'detention' and 'retire'. In a number of cases, noting that it was a young person's first time at court, a chair introduced professionals using their job titles, but did not explain what their roles entailed.

Our interviewees underlined the difficulties in making court proceedings more coherent to young people and were often sceptical about how much young people can ever understand of the process. A YOS worker, for example, said she was *“always amazed at young people who have been to court a lot, they just don’t understand the basics”* and another told us that, *“there’s so much content, it’s just talk and talk and talk, you can see at the end, it’s like the kid’s head spinning trying to condense all of that”*.

This was reiterated by some of the young people themselves, who said of their experiences in court: *“You have no idea of the actual court process so you’re kind of in the dark... how they were doing things, whether to stand or sit, who to talk to, how it all worked”*. YOS staff and defence lawyers told us they sometimes have to plug gaps in understanding by explaining what has happened in court and the implications to the young people after the fact. A lack of understanding can make young people feel that the court process is something outside their control, not something they are an active agent in. As one young person said, *“it just happened, nobody was explaining what was going on”*.

### Engaging with young people in court

There is a significant emphasis given in professional protocols for youth court to engage with young people and to ensure that their voices are heard during proceedings. The magistrates and judges we interviewed described the various methods they use to encourage engagement: *“If they need time, if they’re monosyllabic, you can try and re-phrase your questions, try to get on their wave-length, try to find out what their interests are, ask them a question”*. And the dangers to avoid: *“If you are perceived in any way to act like the headmaster behind the desk, they will shut down completely”*. A district judge said, *“You get skilled at picking up the level at which people are able to communicate and sometimes you just have to adjust according to your audience”*.

Magistrates receive training on engaging with young people and this was thought by some of our interviewees to have markedly improved practice in the youth court, although others argued that the time given to this training was insufficient to ensure a consistent approach across the magistracy. YOS officers said they have to *“increase individual magistrates’ awareness of particular topics like communication difficulties, things like capacity to understand on a case-by-case basis”*.

There was also a contrasting view that training can risk engendering too rigid or formulaic an approach to communicating with young people. We did observe during our research some positive interactions in court. For example, one young person was initially unresponsive, but careful probing by the chair elicited much-needed detail, including around difficulties with school and family life. In another instance, a magistrate made efforts to involve the young person in the decision-making, saying, *“We’ve talked a lot about you, but not to you. What do you think about this curfew situation?”* and going on to negotiate a later curfew with the young person.

Magistrates and district judges often praised young people for their positive attitudes and any progress they had made since being charged with an offence. For example, in response to hearing about the young person’s weekend job, among other things, a magistrate said, *“You’ve had some impressive people discussing this in front of you [but] by far the most impressive person was you”*. Similarly, a district judge frequently pointed out positive things written in pre-sentence reports and wished young people *“good luck”*. Young people often appeared to us to be pleased with such words of encouragement.

Judges and magistrates commonly made efforts to put young people at ease, for example by asking what name they preferred to be called by and, in one case, wishing the young person a happy birthday. Empathy was shown through, for example, acknowledging that delays to hearings are frustrating for young people and saying, *“I’m sure it’s embarrassing for you to have all those people talking about you”*. One magistrate, at the start of each hearing told the young person: *“You are the most important person in the room. It’s all about you”*; and *“youth court is not about punishment it’s about helping you to stop offending”*.

We were also told of good practice during interviews. For example, a legal adviser recounted observing a magistrate engaging with a distressed young person *“really tactfully”*, concluding that *“engagement is one of the most difficult tasks that the magistrates have and I think she made a really good job of it”*. Magistrates and judges also routinely made efforts to engage with parents and carers of young people,



including always thanking them for attending court and often telling the young person to be grateful for the parental support or for their parent taking responsibility for paying any financial penalty incurred.

However, good practice was not consistently applied and there was a view among YOS and court staff we interviewed that some magistrates are 'naturally' better at engaging with young people than others. We also found varying levels of acceptance that the needs for young people should be specifically catered for (in line with the existing guidance). For example, one District Judge said:

*"I always insist that the defendant stand to be identified and when talking to me, just like in the adult court, and I ask the advocates to stand, which is not something that is done universally... So, I have a much more formal approach and I know that is not universally adopted and some people will say that's not appropriate, but I take a different view."*

It was also pointed out that the ability or indeed willingness to speak in court varied greatly from young person to young person, and that this should be accepted and accommodated. During many cases we observed, young people said nothing beyond confirming their name and address, with most of the conversation thereafter being among the court professionals. In one case the magistrate almost instantly declared that the hearing would be adjourned, the young person replied "huh?" and was promptly ushered out of the court. In another, we observed a magistrate paying lip-service to engagement, asking at the end of the hearing if the young person had any questions then giving little time for him to consider this before telling him he was "free to go".

In a more extreme example of poor engagement – and an exception in the context of our observations –, we observed an increasingly combative exchange between a magistrate and young person, ending with the magistrate telling the young person that he could be charged with contempt of court and held in a cell for the rest of the day.

One of the young people we interviewed described feeling very restricted in how they could participate in proceedings:

*"I didn't think I could even slip a word in edgeways. I felt like I could only speak when I was being spoken to and that wasn't very often at all. I think I only spoke twice the first time I was there, and probably three times the next time. And that was just 'yes', 'no'."*

Another said he wanted the bench to hear his perspective but did not get an opportunity to give this: "They see me as the one carrying out the crime and so they haven't listened to my side". One young person followed his defence lawyer's suggestion and wrote a letter to the bench, but of speaking in court he said, "If I had something else to say that I didn't say in the letter, I don't think I'd be allowed". When we asked what advice they would give to a friend going to court for the first time, one young person said, "you just have to listen to what the judge says and when he tells you to stand up, you have to stand up, but you can't ask questions".

We recognise that this issue of engagement has already been acknowledged by HMCTS. We are pleased to learn that they have engaged the Youth Advisory Network Ambassadors, brought together by the Youth Justice Board. These volunteers act as 'ambassadors' to represent other young people across England and Wales. Through engagement with them, we are pleased that HMCTS are starting to work on a guide to the youth court as well as a 'who's who' poster for use online and in court buildings and reviewing their guidance to make sure the language is easy to understand, and the information is clear for children and young adults.<sup>48</sup>

### Challenges to engagement and understanding in court

The demographic and cultural gulf that often exists between magistrates and district judges and the young people they are dealing with creates challenges for communication. In the words of one young person, "they're dead posh, them judges". A legal adviser felt that the majority of magistrates she sees in youth court "do take on board that they are talking to young people who are not in their demographic and not from their background, and try and adjust their language and tone to meet that" but others felt a lack of diversity in the youth magistracy hindered engagement:

*“Sometimes [young people] are asked to speak in court and you can tell it’s not easy. The way the magistrates engage with them is not particularly young people friendly. You know, it’s clear benches are older, middle class, you know the demographic. Some of the language that they use when they are speaking to young people, it’s not child friendly. I think it can be very intimidating, really for the young person”. [YOS]*

Engagement and communication can be particularly complex where young people have speech, language and communication or mental health needs. The YOS has a crucial role in identifying the learning and communication needs of young people, including flagging to the court any speech and language difficulties that will require a more tailored approach to communication, such as specialist support from an intermediary or adaptations to normal court practice.

Commenting on how well such needs of young people are accommodated when the court is made aware of them, a legal adviser felt there had been definite improvement, although other professionals we interviewed thought use of specialist support in court, such as intermediaries, was rare and that “courts don’t modify their approach a great deal”:

*“The court has come quite a long way...with use of intermediaries and other special measures... there is greater awareness now that there is support available and it might not be able to progress as a typical case without the intervention of other qualified professionals.”*

Others worried that young people’s needs are sometimes only identified after a court hearing: “That’s a frustrating part of it, that often they enter the system without those needs identified and therefore are not getting the right support”. Sometimes this was said to be linked to organisational factors such as ‘surprise listings’ where the YOS is not informed in advance by police of a young person’s court hearing.

In more general terms, the YOS mediates between the young person and court to reduce the social ‘gulf’ and the potential for miscommunication. A young person’s response to the formal court environment can create a distorted or negative impression. Apparent nonchalance can be a front or a defence mechanism but is unlikely to be interpreted as such. For example, one magistrate said, “A lot of the younger ones... can seem very nervous – they can get quite giggly which may be (wrongly) seen as them not taking it seriously or as a lack of respect for the court”. Another magistrate noted an instance of a YOS worker pointing out that a young person was holding their mobile phone as a ‘comforter’, saying “thank goodness they’d told us because normally we would say ‘put it down and concentrate’. Having that heads up really helps”. While acknowledging the value of engagement between sentencers and young people, some practitioners were concerned that the substantive outcome of a case could unjustly hinge on the young person’s ‘performance’ in court:

*“I’ve had kids slumped over with their hoodies up and I know for a fact that they’re terrified but immediately I can see the magistrates going, ‘can you sit up please’, and I’m thinking ‘no, this is how they are getting through this’.” [YOS]*

### **Recommendation 5: Developing magistrates’ communication skills**

**More needs to be done to ensure that communication with young defendants and victims is consistently in line with statutory obligations and national guidance and standards. In particular, improvements are needed to training and professional development for magistrates to ensure they develop and maintain the appropriate skills. We suggest:**

- The Judicial College develop an online suite of training resources for youth court magistrates including video guides to good engagement practice.
- Given the complex and sensitive work of youth court magistrates, the senior judiciary should set a clear expectation that they engage with continuous professional development and create a framework that will allow HMCTS Heads of Legal Operations to monitor that engagement.
- We welcome HMCTS engagement with the Youth Advisory Network Ambassadors to help them review information, guidance and tools to support better engagement in court.

## Procedural fairness for victims

A Victim Liaison Officer (VLO) told us there was a lack of knowledge among victims and witnesses about what happens in court. When asked whether they had any sense of what the youth court involves, one victim interviewee said, “no... what does it look like, how does it work, is there a jury? I don’t know, I don’t know any of it”. A VLO told us that victims can receive inconsistent information from different criminal justice professionals attached to their case which can increase their confusion:

*“I have experienced victims and witnesses being given not the most accurate of information [of what will happen when the case gets to court] by police... so I’m not at all sure we put victims and witnesses at the centre of the process.”*

However, another praised YOS workers for explaining the court process to her; this included checking victims’ understanding of, and feelings about, court outcomes:

*“She talked us through everything and sat here for over an hour explaining to us the procedures of what would happen, what outcomes and what could be outcomes, all the scenarios about what to expect”...“I was asked how it made me feel, if I felt that that was okay, if I had any questions”.*

The physical court environment can have an impact on victims. One victim described their experience of waiting in court for their case to be heard as follows:

*“When we went to court the first time because of how busy the court was, the defendant sat right outside the witness [service] room so we felt a bit like prisoners. It wasn’t anybody’s fault it was just that the court was so busy.” “Next time when it wasn’t so busy, (the) young person was told to stay at the other end.”*

Professional interviewees generally thought victims and witnesses were dealt with respectfully when giving evidence in youth court and that practice in that regard had improved. One court professional underlined the ‘crucial’ link between respectful treatment and trust in justice: “We would always treat everybody with respect, it is crucial that we do that...as it instils confidence in the criminal justice system”. Examples given of respectful treatment of witnesses included being permitted to have breaks when giving their evidence to the court, always thanking witnesses for attending court, ensuring they are “not harangued” by the prosecution or defence and allowing them to leave the court building first so as to avoid any unplanned contact with a defendant. ‘Special Measures’<sup>49</sup>, available to all young witnesses, including giving evidence via video-link from elsewhere in the court or from behind a screen in the courtroom, were also noted as positive developments for witnesses in the youth court. However, other aspects of the process did not engender the same trust. For example, as noted above, a victim we interviewed whose case was adjourned because a magistrate was unavailable, perceived this to indicate that the case was not being taken seriously. The victim also took issue with the sentence given, suggesting it would make people less trusting of the system: “People will look at him for example and think ‘well he got away with it’... He should have got more than that”. This victim was yet to receive the compensation awarded by the court compounding their sense of irrelevance.

Concerns were raised by the professionals we interviewed, however, about how the youth court might marginalise the victims’ voice because, unless required to give evidence at a trial after a not guilty plea, the closed nature of youth court proceedings means victims cannot, without special permission, attend sentencing hearings. A YOS interviewee so explained, “the hoops you have to go through to be able to take a victim into youth court are massive” and questioned the potential effects of this exclusion on a victim’s confidence in the system: “How does the victim feel when somebody’s done some harm to them and they’re not allowed to go and see the sentencing?”. One of the magistrates we interviewed described the victim as being “forgotten about [if] there’s no trial” and another rated the youth court’s engagement with victims and witnesses as poor because she could “only think of one case in the last two or three years where the victim spoke at sentencing”.

In the event of a guilty plea, the victim's input is largely made via a victim impact statement (VIS) that is organised by police and presented to the court; some limited information about the victim can sometimes be included in the pre-sentence report prepared by the YOS. However, it was said that impact statements were not routinely available to the court and it can depend on whether the police officer involved in the case has offered the victim an opportunity to make such a statement: *"The onus with that is with the police. It's very much, in my view, like a lottery, how helpful the officer is or how that's explained to a victim, what their options are through that process"*. During our observations in the youth courts, however, victim impact statements were at times read out at length by the prosecution at sentencing hearings and commented on by the judge or magistrate.

Victim liaison officers work hard to support victims and enhance their trust in the system. A victim said, *"my victim support worker was amazing"*. It was noted that victims are often unaware of the outcome of the case and *"that comes from both the court side and police and how they inform victims"*. However, YOS appear proactive in keeping victims updated, including providing information on *"how the young person's complying with their order, what they're doing on their order, did they complete it, if not what are the consequences of them not completing it"*.

## 4. Collaborative interventions and supervision

Problem-solving courts tend to involve the use of treatment or social services to affect behaviour change and often combine different doses of treatment and social service input to respond to complex and multiple needs and risks. A general feature is that they have multi-agency teams that co-ordinate supervision and interventions to motivate an individual through a collaborative supervision plan, and they ensure that the information available to the court on an individual's compliance, represents a complete view of the progress made<sup>50</sup>. In youth court, the YOS is the main provider of collaborative interventions and supervision for court-involved young people. YOSs are multi-agency teams - comprising of statutory partners and specialist professionals, ideally including at least one seconded police officer, probation officer, social worker, health worker and education worker, as well as dedicated YOS officers.

Here we describe the range of collaborative interventions and supervision provided by YOSs and we look at wider issues of partnership between both the YOS and the court and the YOS and other services relevant to the welfare needs of court-involved young people. We explore views about the type and adequacy of interventions and supervision available and how well they map against the needs of young people appearing in court.

### YOS's ability to identify and respond to needs

There was confidence on the part of the judiciary and court staff that YOS could identify the various underlying needs of the young people who appear in court. The level of detail provided in YOS reports was thought to have improved with the introduction of ASSET Plus assessments, which now require information about speech or language difficulties and special educational needs. Local appointments of specialist staff to YOS were also said to have improved service capacity and expertise in this regard. For example, in one site, a speech and language therapist contributed to assessments and pre-sentence reports. In another site, the YOS had employed a community psychiatric nurse (CPN) to screen young people for mental health difficulties. The CPN could prepare a short report for the court, highlighting any issues, including historic contact with Child and Adolescent Mental Health Services (CAMHS).

YOS staff also told us about new initiatives they were developing in response to changing crime patterns among young people. This included, in one site, an *"intervention to educate young people about the dangers of carrying knives, available for all young people who are seen [by YOS] and also something more intensive for those who are stopped for carrying a knife"*. Although, as yet, there is no evidence about the efficacy of these new interventions.

The YOS workers we interviewed mostly felt they had a good range of interventions to offer young people, and more so than in the past. It was noted that, *"very experienced staff are willing to try new things... be flexible and creative"*. Magistrates were generally very complimentary about how YOS worked with young people: *"They bend over backwards."*; *"I think the YOS do sterling work trying to help the young people"*.

### Collaboration between court and the youth offending service

In all sites, there was evidence of good working relationships between the courts and YOS. This included confidence in the quality of assessment information on young people provided by the YOS. We have mentioned above how the YOS acts as mediator by alerting the court to potential difficulties a young person might have in understanding or participating in the court process, or by explaining idiosyncratic behaviour that might otherwise be interpreted as disrespectful. YOS staff were also praised for providing good quality and detailed reports about young people to support sentencing. For example, comparing YOS reports to those she had seen on adult offenders, one judge said: *"There's more analysis, there's more detail, there's more reflection on what's going on. They are much more child-focused and child centric"*. A legal adviser in another site stated, *"the amount of input of the YOS is incredible and the reports that they prepare are very thorough and detailed about absolutely everything"*.

The YOS brings various information about a young person to the attention of court professionals and this was widely acknowledged as “invaluable”. Pre-court meetings between legal advisers and YOS – sometimes including defence representatives and magistrates or judges – where young people due to attend court are discussed and any issues highlighted, are considered vital to the effective running of the court.

YOS officers told us: “[Our] proposals are followed far, far more than they ever were before. I’m certainly shocked if we don’t get the result that we are looking for.”; “I’ve never had any issue with the sentencing. Every time I’ve put a PSR (Pre-Sentence Report) in, I’ve had what I’ve suggested”. In one site, this was said to be based not only on a respect for YOS expertise, but also on a review process which first establishes consensus within the service about the sentence recommendation before it is presented at court. In another site, a YOS interviewee put this down to long-term and experienced YOS staff: “There’s not a huge staff turnover so the knowledge and understanding is quite good in terms of identifying potential need”.

In Site 1, YOS staff and magistrates also highlighted the mutual benefits of some reciprocal training they had recently been involved in. The YOS had provided training to magistrates on knife crime, and on working with children with mental health problems, while magistrates had participated in a collaborative session for YOS staff new to the role, to improve their confidence in participating in the court process. Sharing learning in this way was said to have not only broadened and strengthened participants’ skill sets but made them more aware of the expertise and remits of their colleagues.

## **Lack of services**

However, there was consensus that a lack of resources limited the breadth and depth of support available. One magistrate for example, described it as a “sticking plaster” situation whereby some of the entrenched welfare and other complex needs of young people in court were not properly dealt with. In the words of another magistrate: “Everyone in the youth justice system tries really hard [but] there are no easy fixes”. A legal adviser described the limits to what the courts can do to address the often multiple and complex social issues involved:

*“We’re limited, because obviously the magistrates are there to sentence and the YOS are there to work with children on their orders but it [can be] a socio-economic issue and that’s outside the remit of the courtroom, we’re just seeing the consequences of that; you know deprivation, poor education...social problems that the court is not able to address.”*

There was a strong sense among practitioners across the sites that while the identification of young people’s needs has improved, the ability to effectively respond to these various issues is constrained by resource and service limitations. In the view of a defence solicitor, cost-cutting has meant that YOS programmes are “covering what they have to and they’re not necessarily in a position to properly implement change that would reform that young person”. A magistrate spoke of his wish to see government commitment to re-investing the savings made through reducing the numbers of young people coming to courts, in order to deal more effectively with the needs of those young people who do end up before the courts:

*“We need to ensure that even though there’s been a drop in the numbers of children coming before the courts that those in charge of the purse strings don’t see that as an automatic saving because ... We’re now getting to a position, we can get to grips with the ‘core issue’, looking at some of the more problematic socio-economic and educational problems we have [in area] and if we’re really going to deal with that, it’s not ‘look we’ve had an 80% drop in crime over the last 10 years, let’s cut the budgets.’ No let’s reinvest it, in solving the core problem’, so you don’t get spikes in things like county lines... So, don’t cut the budgets, don’t think we’ve won the war. We know it’s a more complex cohort; it will take more time and more joined-up thinking.”*

Another common frustration concerned access to support for mental ill health, both with respect to magistrates’ failures to consider mental health issues in sentencing, and limited availability of external mental health services for young people:

*“We had a girl through that we were saying no, this girl should be diverted down to mental health. [...] we were trying to divert it through the vulnerable offender panel with a plan that focused on her mental health and the trauma. But the magistrates just kept trying to bring it back and bring it back, refusing, saying it had got past a point you could divert it. It just went on and on and on.” [YOS]*

*“[I’m] currently managing a young person where a lot of triggers to offending are mental health and emotional instability and he is on a number of waiting lists to get some support and YOS has nothing internally to offer support. [It’s] a barrier to successfully completing an order.” [YOS]*

However, YOS staff also urged the need for caution when recommending interventions for young people to avoid overloading them: *“everything suggested by YOS and the courts needs to be defensible”*. Another YOS worker described how young people *“will have lists of things that have been offered to them, but they’ve not wanted to engage... For me personally, I’d like to bring down the amount of services we have and work harder at engaging with those who don’t engage”*.

### **Recommendation 6: Support for vulnerable young people**

**Shortages in specialist provision for vulnerable young people are a common theme in a long line of reports on Youth Justice and featured regularly in interviews and observations in our research. We recommend that:**

- Government urgently review the level of spending on specialist support for vulnerable young people including Child and Adolescent Mental Health Services, to ensure that the level of provision is adequate to meet demand.

### **Collaboration between courts, YOSs and children’s services<sup>51</sup>**

A significant proportion of the young people appearing at court are in local authority care or otherwise involved with children’s services<sup>52</sup> and concerns about the extent and quality of social services input with the court-involved young people in their care were commonly raised in interviews and during observations across the research sites. For example, whilst we routinely saw parents supporting young people at court, it was not uncommon to see children in care appearing without the presence of their social worker. A legal adviser we interviewed told us: *“Often when a social worker comes with a child and you try to talk to them, they don’t actually know the child, they will say they’ve only just taken up the role. There’s no one that’s been there on a long-term basis”*.

Our interviewees, while acknowledging that social services departments are struggling with reduced resources and difficulties with recruitment and retention of staff (and in one site, children’s services had recently been in ‘special measures’) felt that the YOS – and the court – were left to deal with the effects of deficits in social services provision. This was said to have wider implications for supporting young people to successfully complete their sentence: *“We are doing all the leg work”; “they constantly pass the buck, ‘oh well, it’s not our problem”*.

In one observation, for example, a young person was being held on remand because social services could not find a suitable care placement for her. Three previous care placements had broken down and she was appearing in court for a charge of assault by beating. She also had a chronic health condition that required regular medication which she often failed to take. The magistrate asked the social worker during the hearing to explain to the court what was being done to find a placement and was told that *“everyone is working on it, and [they] are hoping to get it sorted very soon”*. The magistrate asked where the young person’s medication was at that moment in time, but nobody seemed to know. The magistrate commented: *“This can’t be for the courts to sort out. This is the responsibility of Social Services”*. Later, a legal adviser explained:

*“The court (magistrates and judges) do try to tie up some of the loose ends to ensure that everything is being done to safeguard (the) young person, but there is not a great deal the court can do – if there are, for example, a lack of placements – beyond demanding that social services attend court to explain why something the court may have ordered has not happened.”*

During another observation, a case had been returned to court because the Referral Order that had been passed was considered by the YOS to be unworkable. The young person had been placed in care homes in six different areas, mainly outside the catchment of the YOS and the YOS was often not made aware by social services of where the young person had been sent. The YOS staff were arguing that this was making it impossible to facilitate the order. The young person's solicitor reasoned that these circumstances greatly hindered his client's ability to comply with his sentence: *"Stability is a crucial part of the sentence; where there is stability, there is hope that the Referral Order can take place...He's never really had a chance to prove himself"*.

A YOS worker provided a recent and stark example of poor practice about a young girl who had been 'placed' in [Site 3] from another city. She had committed an offence in her new local authority placement and the home where she had been staying had thrown her out: *"packed her bags and left eight bags at court"*. The social worker from her home city *"stopped answering our calls and [YOS workers] were walking around town with her and her suitcases at 8 o'clock at night ... [Local social services] were saying, 'she's nothing to do with us'"*.

Interviewees wanted to see greater involvement from social services and more *"joined-up working"* between social and youth offending services. Of note were comments made by two parents, we interviewed, whose children were under the care of social services: *"They [YOS] have done more with him than the social workers. I just think I wish they had had more authority; They've [YOS] never turned me away; they've been there for my son and they've been lumbered with two for the price of one with us because they've supported me as much"*.

### **Recommendation 7: Enhancing relationships between courts, YOSs and children's services**

**The lack of engagement from children's social workers in the youth court risks undermining the cohesion of support for vulnerable young people. We recommend that:**

- The Department for Education and the Association of Directors of Children's Services ensure that young people in local authority care are always accompanied by a social worker when attending court.
- The Department for Education and the Association of Directors of Children's Services and the Association of YOS Managers review the relationship between children's social work, YOSs and the Youth court and identify practical options for development.
- Individual YOSs and children's social work departments should co-develop a formal document detailing their shared responsibilities in regard to children in the criminal justice system.
- Youth courts should be afforded the power (as under s.37 Children Act 1989) to order the local authority children's service to investigate whether a child is at risk of suffering significant harm, and whether the local authority should intervene to safeguard and promote the child's welfare (s.47 investigation under the Children Act 1989). This power would be available in cases where there are welfare concerns and the outcome of this investigation should be reported back to the youth court prior to sentencing.



## 5. Judicial monitoring

Evidence on practice in problem-solving courts show they tend to use the authority of the court to monitor the progress and compliance post sentence of those individuals being supervised in the community through regular reviews (known as judicial monitoring). The individual is brought back to court and is usually seen by the same sentencer. Judges use the reviews to motivate the offender, encourage continued compliance and, if necessary, they can hear breach proceedings<sup>53</sup>.

Here we describe the local informal, review hearings which include magistrates for young people on Youth Rehabilitation Orders that were being trialled in a research site, as well as the broader discussion within and between the sites on their value and potential.

### Problem-solving review hearings

Research on the effectiveness of problem-solving approaches has shown that regular reviews by sentencers can help sustain an offender's motivation to comply with their sentence, thus helping to reduce instances of breach, and they create opportunities to trouble-shoot where any support required by the offender to adhere to an order is lacking. Reviews – whether they take place inside or outside the formal courtroom – are structured in such a way as to enable more positive engagement and dialogue between sentencer and offender.

Site 1 has adopted the use of informal, review hearings for young people on Youth Rehabilitation Orders (YROs). Although they involve the participation of magistrates, it is important to note that YRO reviews are not a formal part of the work of the court and do not take place in a court setting. Rather, they are voluntary sessions which are conducted under the supervision and management of the YOS and they do not have the power to make amendments to orders or to make a formal response to non-compliance.

Nonetheless, guidance has been issued by the Justices' Clerks Society<sup>54</sup>, with the agreement of the Senior Presiding Judge (SPJ), for how such non-statutory reviews can be set up locally by youth offending services. This emphasises that it is a matter for the individual YOS as to whether or not to implement such review panels locally, that this is limited at this stage to YROs and any extension to other types of order must be agreed with the SPJ; that these do not form part of a magistrates' official duties and thus involvement is undertaken in a personal capacity but "remains subject to the expectations of judicial office holders set out in the Guide to Judicial Conduct". While there is provision in the Criminal Justice and Immigration Act (2008) for the Secretary of State, to enable a court to review the YRO periodically, to date this has not been enacted.

Review hearings in Site 1 take place in informal space in YOS offices, including in a kitchen area or meeting room. The panels comprise two magistrates and a manager from the YOS and the supervising YOS worker. The young person is *invited* to attend and can also bring a parent, carer or sometimes their social worker to the meeting. The reviews are managed by the YOS and include an assessment of how well the young person is engaging, including by highlighting their progress and any achievements or what further support could be offered to improve progress. In the reviews we observed, the young people were always reminded by the magistrate of the requirements of their YRO and the consequences should they not comply. On occasion, it was also made clear that decisions about 'consequences' would take place back in the court room, if deemed necessary – meaning the voluntary nature of the review panel was maintained.

Data provided by the YOS showed that during 2018, there were 35 review panels, of which 26 were attended by young people. The practitioners we interviewed were supportive of the aims of the reviews in helping to encourage and support the positive engagement of young people:

*"... it re-focusses their [young people's] attitude, to a positive approach to the order because up until then, their experience of magistrates and people dictating what happens to them, which is how they see it, is people sat on a bench who are talking to them in a particular way, who are deciding what will happen to them, who are telling them what to do and then suddenly out of the blue they have*

*a review and they are sitting around a table with people who are genuinely taking a real interest in them, who are not being lovey-dovey. Although the setting is informal it is quietly exploratory, it is quietly challenging, but it's all done at the young person's pace so they're more relaxed, they're more engaged."* [YOS]

YOS workers had provided training to magistrates on how best to talk to a young person during a review, "so they're not talking to them from a dictatorial position, when they're less likely to listen to what you're saying, where they're more likely to switch off and get upset" and were generally impressed with how the magistrates were adapting their approach from court to kitchen accordingly:

*"One lad who came in, you wouldn't believe it, he had his tongue pierced and he was showing the magistrates and they really engaged with it and I was really impressed."*

*"I have a hang up about class, that's my hang-up and I like people to be on the same level no matter what they do, who they are. And they [magistrates] have got stuck in...I've had them making tea [for everyone at the review meeting]"*.

*"It's all very well me saying 'look you're doing really well but there's this in the way, to hear it from people that have - maybe haven't sentenced them but may have sentenced others like them."*

During review meetings, we heard magistrates congratulating the YOS on their work with young people but also holding young people and practitioners to account, questioning why something that had been promised had not yet been done. We also observed how the continuity of contact between magistrate and young person could be important. For example, at a review where a young person was not engaging with the YOS as expected, the magistrate reminded him gently about the time he came to court and told her he was frightened of being sent to a Youth Offending Institution. She told him that she did "not want to hear that [he is] falling back". There was also a clear summing up of expectations at the end of each review: "carry on taking your medication, keep your appointments".

During another observation, the panel congratulated a young person on his bravery in disclosing to YOS workers what was happening to him (with respect to safeguarding concerns about the relative he had been staying with) which explained why he had not been making his regular supervision appointments. This meant that potential breach proceedings were avoided. There were also examples in other reviews of young people being given praise about the progress they were making with education or training. It was apparent – based on their smiles – that some young people were pleased to have this positive feedback whereas for others their feelings were less evident. Young people were always encouraged to speak at the review and to give feedback to the panel about how they were coping but, as in the youth court, despite such efforts and the informal setting, their contributions were generally minimal and most of the talking was done by the professionals.

Additionally, it was felt that the reviews were helpful for improving communication between the YOS and magistrates. One YOS interviewee, for example, noted that there had been a "massive, massive improvement in the YOS and magistrates' relationship [and], there is now far more communication in and also outside the court". Site 1 was the smallest of our three research sites, and size might well have been a factor in establishing good communication. We have noted above the 'reciprocal training' in this site; additionally, the leadership in the court team and the shared "passion, drive, absolute and resolute determination" of some key individuals in the YOS and on the Youth Bench were identified as the drivers of developments, which thus could be vulnerable to changes of personnel.

Some YOS practitioners noted the need to be mindful about the pressures on YOS staff, arising from the increased workload and resources required to run review panels effectively. A related difficulty was the reduction in the number of magistrates who covered the youth court, creating risks to their continued availability to participate in review panels:

*"Certain case managers who struggle with the idea that this is something else they're being told they have to do. Extra legwork."*

*“I think resources and we’re losing magistrates. I think we’ve lost 50% of the youth magistrates in the area and there’s a difficulty [they’re retiring, and they’re not being replaced]. With the [Youth Rehabilitation Order] Reviews, you need magistrates to rotate and if you don’t physically have the numbers you can’t continue the work...”*

VLOs can also provide information on behalf of victims to the YRO panels. For example, if there is the chance of reoffending or if the victim feels unsafe, they can ask the court to attach a contact requirement to stop the young person contacting the victim or ask for an exclusion zone.

### **Recommendation 8: Extend and evaluate trials of the innovative judicial monitoring ‘problem-solving’ review model**

**The YRO review model is a promising innovation and is in line with the limited evidence base on effective practice with young people. However, it has not yet been robustly evaluated in terms of the effects of review on young people’s compliance, reoffending rates and indicators of rehabilitation, including for example (re)engagement with education or training. We recommend that:**

- the Youth Justice Board extend the use of these reviews to more pilot sites and assess their impact through an independent evaluation of pilot projects and, in addition;
- the Ministry of Justice should give these pilots the powers to review Youth Rehabilitation Orders to check on children’s progress and amend sentences where necessary, by extending Schedule 1 paragraph 35 of the Criminal Justice and Immigration Act 2008.

### **Perspectives on YRO reviews from other sites**

There was an appetite among magistrates from Site 1 and other sites to know more about the post-sentence progress of the young people they had sentenced: as one magistrate explained, *“generally, we don’t usually know [and] we won’t see them unless they’ve breached”*. Some attempts had been made by the youth bench to seek out this feedback and magistrates had asked the YOS to provide reports on young people’s progress on orders but that had *“petered out”*. Another magistrate liked the idea of having regular updates on *“young people on the most intensive orders, like the YRO with ISS, where you could have a panel where these young people come back to report”* but he went on to say that there *“just isn’t the funding to do that type of thing”*.

Site 3 is preparing to pilot youth order review panels in which magistrates, in close partnership with the YOS, will hold informal reviews of YROs and the supervision element of DTOs, under the badge of a monthly *“review and congratulate court”*<sup>55</sup>, although this had not been implemented at the time of our research.

In Site 2, there were no current plans for developing processes for progress reviews, and on this subject two legal advisers were concerned about the lack of any statutory framework to take such an idea further: *“We’ve spoken about it for a few years, I think the youth offending service wanted us to do it, but we don’t have the legislation to do it. Maybe we could do it on a pilot or on a voluntary basis”*. Site 2, while not using reviews, described current initiatives to address non-compliance among young people, with the aim of reducing the chance of breach. These involved the YOS holding what they called ‘Back on Track’ meetings to support the young person to re-engage. A legal adviser described how the court tried to be flexible when dealing with breaches: *“When we get a breach before the court, we should deal with it then and there, but in the interests of that young person we will give them a chance and we will adjourn them for a few weeks just to see if that young person gets on.”* A magistrate noted that a few years ago the chair of the youth bench had tried to introduce a policy of having breaches heard by the same magistrate who made the initial order, to provide consistency for young people. However, the logistics around listings proved to be a *“nightmare”* so the policy was discontinued.

## 6. The operational environment

### The operational environment for youth court practice

In each site, the number of youth courts had reduced since 2010, reflecting court closures, mergers of youth benches and reductions in the numbers of magistrates available to sit in youth court. There has also been local re-structuring to accommodate closures, involving the amalgamation of previously separate youth offending services.

We found the courts in the research sites experienced issues due to insufficient and poor resources, with inadequate IT highlighted as a particular problem. As one magistrate explained: *“Things can sound great, but they do not always work in practice - Things don’t work, files can get lost – we do everything on the system... information requested is not available, lots of problems with things from the CPS [Crown Prosecution Service], taking time or taking far too long and from the police taking far too long”*.

In the two sites covering larger metropolitan areas, interviewees felt court closures and re-structuring of services, and the movement of staff to accommodate closures, had disrupted long-established working relationships between YOS and court staff:

*“I found that when I was in [name] court, week in week out... you had a relationship with the regular staff who worked there, it was just more accessible to problem-solve. If they don’t know you from Adam, you don’t have that relationship, they might not even look in your direction, let alone being able to talk to them.”* [YOS]

The impact of the court closures on inter-agency relationships was highlighted as an issue in the majority of interviews with practitioners. One YOS officer explained, *“Our relationships with magistrates and judges has got worse because of the court closures. I sit in meetings with them and I know they have a lot of their own issues”*. It appears that court staff are not immune from this change either: *“A lot of the clerks are on a revolving rota... We are coming across a lot of clerks we don’t know”*. We were also told of strategies to help build or re-build working relationships. A legal adviser, for example, informed us that she and local magistrates sit on the management board of several of the local YOS teams as observer or ‘information giver’ when required. While some YOS workers felt relationships with the courts would naturally improve as the new structures bedded in, others felt that immediate work was needed to address this.

One interviewee spoke about magistrates losing their confidence because they sit so infrequently in youth court and another thought changes were causing inconsistencies in magistrates’ sentencing practice because new relationships of trust with the YOS had yet to be built: *“People could appear before two different magistrates, one could get a DTO, the other a Referral Order”*. This comment reflected wider concerns expressed by some interviewees about sentencing practice, including differences between magistrates and district judges. For example, a legal practitioner said she found district judges to be much more consistent in how they deal with young people than magistrates, putting this down to their robust legal training.

The VLOs we talked to highlighted cuts to staffing (for example in one site, losing one of three victim workers) and a re-focussing of resources means that they can only offer support to victims after a court hearing is concluded: *“Our role only kicks in once court order is has been passed”*. And this was said to have had an impact on what work can be done to increase victims’ knowledge about youth court process.

## National strategy and improvement

The improvements in youth court practice that have been made over the past few years have tended to be partial, reactive and fragmented and, in the case of YRO reviews, dependant on local leadership and the energies of staff. More broadly, we have observed, from the research and broader policy discussions we are involved in, the lack of a national strategy focussed on improving the quality of justice in youth court. The court modernisation and reform programme seeks to address a number of challenges, primarily around process, timeliness and technology, but it is not clear what, if anything, it has to meaningfully say about delivering a better quality of justice to court-involved children and young people.

Moreover, it is unclear which agency or set of agencies sees it as their job to improve how youth courts operate. Between the Youth Justice Board, the Ministry of Justice, the Department for Education, HMCTS, the judiciary and other bodies such as the Solicitors Regulation Authority and the Bar Standards Board, it remains unclear who is responsible for identifying, sharing and promoting innovation and better practice in youth courts. Where is the place or set of places where practitioners in youth courts can find out more about ideas and options for innovative practice, both in England and Wales and internationally? At the moment, that remains unclear.

### Recommendation 9: Improve the operating environment to guarantee fairer outcomes

#### We recommend that:

- The Ministry of Justice and Department for Education use the next Spending Review to ensure that youth justice and children's services are adequately resourced to provide effective services to court-involved children and young people;
- The Ministry of Justice commissions an independent review of the impact of court closures and bench mergers on the quality of justice;
- The Ministry of Justice, HMCTS and the senior judiciary identify and resource a single Government body to be responsible for identifying, sharing and promoting innovation and better practice in youth courts.

# Conclusions

During our research, we came across many dedicated practitioners who were committed to improving the support for young people appearing in court and we saw examples of creative and innovative practice being developed locally. However, we also observed practice which fell short of what is recommended for the youth court. Our research found courts which were being stretched by court closures and the associated bench mergers and youth offending and other services which were working with reduced budgets and staffing. As a result, the increasingly vulnerable young people coming before the court are not always receiving the treatment they deserve.

What we found far too often - the delays; the lack of resources for developing specialism among youth court professionals; the lack of services for speech, language and communication or mental health needs; the limited support from children's services (given the resource constraints they are under); the impact of constant court modernisation (including closures of court and mergers) and reductions in funding— created an over-burdened system in which practitioners struggled to deliver basic services.

Moreover, we are aware, in conducting this research over the past two years, that others have been here before. The Carlile Inquiry in 2014 (in which the current Lord Chancellor participated), the Taylor Review in 2016 and the Lammy Review in 2017, all to varying extents, found that the framework around which youth court practice is organised could and should be strengthened and improved.

What these reviews all had in common was a concern that courts are not currently equipped to identify and tackle the issues that contribute to and prolong youth offending. Our research has, through in-depth interviews and observations, walked in their footsteps. Additionally, we have been able to record in detail the impact that court modernisation and reductions in resources have had on the efficacy of our youth justice system.

The Government, elected with a substantial majority in December 2019, has a real opportunity to take the lessons from this research and the reviews, and to make a bold move to improve how our courts deal with youth offending, improve outcomes for some of the most vulnerable and marginalised individuals in society and give victims a greater voice.

This report was due for publication just as the Covid-19 pandemic struck the UK. As we eventually emerge from these unprecedented times, this report makes clear that it is imperative that we set our sights far higher than a mere return to 'business as usual' for the youth court.

# Recommendations

## Recommendation 1: Tackling delays

There is urgent need for action to address the delays between offences and the commencement of court proceedings. These delays impact on everyone, including victims. A key problem is delayed charging decisions by the police, which were also shown to disrupt the rehabilitative efforts of young people. We recommend that:

- Her Majesty's Inspectorate of Constabulary, The National Police Chiefs' Council and the Home Office develop a protocol which limits the amount of time young people can be kept under investigation before a charging decision must be made (though there may need to be exclusions for the most complex cases).

## Recommendation 2: Maximising opportunities for pre-court diversion

We found strong support for ensuring that children and young people's cases should be resolved out of court, especially if this could be done through point-of-arrest diversion which helps children and young people avoid a criminal record for low level cases. We also found strong support for victim involvement and restorative justice in these disposals and note that victims and practitioners commented on how these provided better outcomes than court. We recommend that:

- The Youth Justice Board should publish clear national guidance on effective, evidence-based point-of-arrest diversion and out-of-court disposal practice.

## Recommendation 3: Improving youth courtroom layout

Hearing youth court cases in adapted courtrooms can support engagement in and understanding of the court process. We recommend that:

- Her Majesty's Courts and Tribunal Service (HMCTS) develop practical guides on adapting courtrooms for the needs of young people.
- HMCTS set a goal that all youth court cases should be heard in adapted courtrooms by the end of this parliament and should invest in adapting existing facilities as well as considering how this goal can be pursued as the court estate is reshaped.

## Recommendation 4: Strengthening youth court specialism of legal practitioners

More needs to be done to incentivise defence advocates working in the youth court to develop their skills in communicating with young people and their understanding of the distinctive features of the youth court. We recommend that:

- The Solicitors Regulation Authority and the Bar Standards Board develop a set of standards for recognised training in youth advocacy.
- The Legal Aid Agency enables advocates with qualifications in youth court practice to claim higher rates of remuneration, as happens in a number of other specialist areas.

## Recommendation 5: Developing magistrates' communication skills

More needs to be done to ensure that communication with young defendants is consistently in line with statutory obligations and national guidance and standards. In particular, improvements are needed to training and professional development for magistrates to ensure they develop and maintain the appropriate skills. We recommend that:

- The Judicial College develop an online suite of training resources for youth court magistrates including video guides to good engagement practice.
- Given the complex and sensitive work of youth court magistrates, the senior judiciary set a clear expectation that they engage with continuous professional development and create a framework that will allow HMCTS Heads of Legal Operations to monitor that engagement.

### **Recommendation 6: Providing better support for vulnerable young people**

Shortages in specialist provision for vulnerable young people is a common theme in a long line of reports on Youth Justice and featured regularly in interviews and observations in our research. We recommend that:

- Government urgently review the level of spending on specialist support for vulnerable young people, including Child and Adolescent Mental Health Services, to ensure that the level of provision is adequate to meet demand.

### **Recommendation 7: Enhancing relationships between courts, YOSs and children's services**

The lack of engagement from children's social workers in the youth court risks undermining the cohesion of support for vulnerable young people. We recommend that:

- The Department for Education and the Association of Directors of Children's Services ensure that young people in local authority care are always accompanied by a social worker when attending court.
- The Department for Education and The Association of Directors of Children's Services and the Association of YOS Managers review the relationship between children's social work, YOSs and the Youth court and identify practical options for development.
- Individual YOSs and Children's Social Work departments should co-develop a formal document detailing their shared responsibilities in regard to children in the criminal justice system.
- Youth courts should be afforded the power (as under s.37 Children Act 1989) to order the local authority children's service to investigate whether a child is at risk of suffering significant harm, and whether the local authority should intervene to safeguard and promote the child's welfare (s.47 investigation under the Children Act 1989). This power would be available in cases where there are welfare concerns and the outcome of this investigation should be reported back to the youth court prior to sentencing.

### **Recommendation 8: Extend and evaluate trials of the innovative judicial monitoring 'problem-solving' review model**

The YRO review model is a promising innovation and is in line with the limited evidence base on effective practice with young people. However, it has not yet been robustly evaluated in terms of the effects of review on young people's compliance, reoffending rates and indicators of rehabilitation, including for example (re)engagement with education or training. We recommend that:

- the Youth Justice Board extend the use of these reviews to more pilot sites and assess their impact through an independent evaluation of pilot projects and, in addition;
- the Ministry of Justice should give these pilots the powers to review youth Rehabilitation Orders to check on children's progress and amend sentences where necessary, by extending Schedule 1 paragraph 35 of the Criminal Justice and Immigration Act 2008.

### **Recommendation 9: Improving the operating environment to improve justice**

We recommend that:

- The Ministry of Justice and Department for Education use the next Spending Review to ensure that youth justice and children's services are adequately resourced to provide effective services to court-involved children and young people;
- The Ministry of Justice commissions an independent review of the impact of court closures and bench mergers on the quality of justice;
- The Ministry of Justice, HMCTS and the senior judiciary identify and resource a single Government body to be responsible for identifying, sharing and promoting innovation and better practice in youth courts.



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# Annex A

**Table 1: Procedural fairness policy and practice guidance for the Youth court**

<p><b>Understanding</b></p>	<p><b>Magistrates' Courts (Children and Young Persons) Rules 1992:</b></p> <ul style="list-style-type: none"> <li>• The court must explain to the young person the nature of the proceedings and substance of charge in simple language which is suitable to their age and understanding;</li> <li>• Before sentencing the court must tell the young person, and their supporters and representatives, how it proposes to deal with the case and then allow any of them to make representations. When making an Order, the court must explain it to the young person.</li> </ul> <p><b>The Magistrates' Association Youth court Protocol<sup>56</sup>/ Youth court Bench Book</b></p> <ul style="list-style-type: none"> <li>• The chair should introduce themselves and explain roles of each person to a young person on their first appearance and, on any subsequent appearances, should sensitively check whether they understand those roles or would like to be reminded;</li> <li>• Questions should be in plain language and at a level the young person can understand. Closed questions, those that allow only a yes or no answer, and legal jargon, should usually be avoided.</li> </ul> <p><b>National standards for youth justice<sup>57</sup></b></p> <ul style="list-style-type: none"> <li>• Children and their parents and carers should be provided with appropriate information and support during the court process, and checks made to ensure their understanding</li> </ul>
<p><b>Engagement</b></p>	<p><b>The Magistrates' Association Youth Protocol</b></p> <ul style="list-style-type: none"> <li>• Magistrates have the opportunity to engage with young people and families but in doing so should consider potential communication difficulties. They are reminded that some young people may not want to participate for reasons, including immaturity, embarrassment or nerves;</li> <li>• Magistrates should ensure the young person speaks for themselves when appropriate;</li> <li>• It is essential that parents/guardians attend court. Looked after children should be accompanied by a carer who is familiar with their circumstances.</li> </ul> <p><b>Youth court Bench Book</b></p> <ul style="list-style-type: none"> <li>• Magistrates are encouraged to speak to the young person and their parent or guardian after sentencing has been passed.</li> </ul> <p><b>National standards for youth justice</b></p> <ul style="list-style-type: none"> <li>• All proceedings should demonstrate that children's voices are heard and that they can participate effectively.</li> </ul>
<p><b>Environment</b></p>	<p><b>The Children and Young Persons Act</b></p> <ul style="list-style-type: none"> <li>• Children and young people should be separated from adults while being conveyed to or from a criminal court, or while awaiting before or after attendance in any criminal court.</li> </ul> <p><b>The Magistrates' Association Youth Protocol</b></p> <ul style="list-style-type: none"> <li>• Youth courts should ideally have separate entrances and waiting area;</li> <li>• The secure dock should only be used for those charged with the most serious offences or whose behaviour gives rise to serious concern – it should not be the rule for young people appearing from custody.</li> </ul> <p><b>National Standards for Youth Justice</b></p> <ul style="list-style-type: none"> <li>• Court should be reserved for children who cannot be dealt with by less formal means</li> </ul>

# Annex B

## Membership of youth court Advisory Committee

Name	Organisation
Tim Bateman (chair)	University of Bedfordshire
Caroline Adams	National Police Chiefs' Council
Kate Aubrey-Johnson	Human rights barrister - child rights and youth justice specialist. Former director of the Youth Justice Legal Centre
Lord Alex Carlile	House of Lords, Carlile Review
Anne-Marie Douglas	Peer Power
John Drew	Standing Committee for Youth Justice
Chris Stanley	Michael Sieff Foundation
Lesley Tregear	Standing Committee for Youth Justice / former AYM chair
Andy Peaden	Association of Youth Offending Team Managers

# Endnotes

1. The Nuffield Foundation is an independent charitable trust with a mission to advance social well-being. It funds research that informs social policy, primarily in Education, Welfare, and Justice. The Foundation has funded this project, but the views expressed are those of the authors and not necessarily the Foundation. Visit [www.nuffieldfoundation.org](http://www.nuffieldfoundation.org).
2. See Bowen and Whitehead (2015) *Problem-Solving Practice: An Evidence Review*. Centre for Justice Innovation: London.
3. For serious crimes, like murder or rape, the case starts in the Youth Court but will be passed to a Crown Court. Cases where the young person has an adult co-defendant will also be heard in the Crown Court.
4. The Youth Court has the power to pass a custodial sentence of up to 2 years on a convicted offender compared to adult Magistrates' court where powers include up to six months' custody for a single offence and up to 12 months for two or more offences.
5. Rule S59 of Bar Standards Board Handbook requires barristers and pupils working in the Youth Court to register that with BSB and declare that they have the specialist skills, knowledge and attributes necessary to work with young people, as set out in the Youth Proceedings Competences and Guidance. However, there is currently no equivalent for solicitors.
6. Ministry of Justice and Youth Justice Board (2020) *Youth Justice Statistics 2018/19*.
7. Prison Reform Trust (2016) *In Care, Out of Trouble: How the life chances of children in care can be transformed by protecting them from unnecessary involvement in the criminal justice system*. Report of an Independent review chaired by Lord Lamming. London: Prison Reform Trust.
8. See for example, Bateman, T (2017) *The State of Youth Justice 2017: An overview of trends and developments*. London: National Association for Youth Justice. (Chapter 5).
9. See for example Campbell and Abbott (2012) *Same Old: the experiences of young offenders with mental health needs*. *Young Minds*; Bryan et al (2015) *Language difficulties and criminal justice: the need for earlier identification*, *International journal of language and communication disorders*, 50 (6), 763-775; *Speech, Language and Communication Needs identified in YJB survey of practitioners (2012) as a key area for developing and prioritising effective practice*.
10. Ministry of Justice and Department for Education (2016) *Understanding the Educational Background of Young Offenders*. Joint experimental statistical report from the MoJ and DfE.
11. House of Commons, 'Written Question: Youth offending services: Grants', 5 June 2019, 252658.
12. Local Government Association, 'Councils Warn Against Further Youth Offending Cuts', 9 March 2019.
13. Crime and Disorder Act 1998, s.37 (1).
14. Children and Young Persons Act 1933, s.44 (1).
15. Sentencing Council (2017) *Sentencing Children and Young People, Definitive Guidance*.
16. Independent Parliamentarians' Inquiry into the Operation and Effectiveness of the Youth Court (2014). Chaired by Lord Carlile of Berriew CBE QC.
17. Taylor, C. (2016) *Review of the Youth Justice System in England and Wales*. Ministry of Justice London
18. The Lammy Review (2017) *An independent review into the treatment of, and outcomes for, Black, Asian and Minority Ethnic individuals in the Criminal Justice System*.
19. Implementation of the recommendations of the Carlile Inquiry Report and subsequent related inquiries relevant to youth justice. See: <https://www.michaelsieff-foundation.org.uk/implementation-of-the-recommendations-of-the-carlile-inquiry-progress-report-2020/>
20. Problem-solving approaches have been developed in other jurisdictions for example, in family courts, including Family Drug and Alcohol Courts, and aspects of problem-solving are apparent in Drug Rehabilitation Requirements introduced in CJA (2003) which include the option of court reviews as part of the treatment programme. See Bowen and Whitehead, (2015) for wider discussion about problem-solving in courts in England and Wales.
21. Each site was given a report of all local data and research findings.
22. 81%; 80% and 63% of young people in the three different sites. There is no clear driver for this variation, but it may represent differing propensities to offer young people diversion or out-of-court-disposals which, where available, are likely to be particularly used with younger children.
23. In Site1, 8.4% of the young people appearing in court in 2018 were Black or Black British but comprised only 2.7% of the local population aged 10-17 years based on 2011 census data. In Site2 equivalent figures were 4.4% compared with 2.7% and in Site3, 6.8% compared to 3.3%.
24. Ministry of Justice (2020) *Youth Justice Statistics 2018/19*.

25. Asset Plus is an assessment and intervention planning tool developed by the Youth Justice Board to collate information on circumstances of the young person and assess various risks alongside a consideration of their needs, goals and strengths. It is based on the professional judgement of practitioners.
26. Not in education, employment or training.
27. These data relate to cognitive and learning disabilities.
28. Judgements about health and communication concerns are made by YOS workers on the basis of diagnostic surveys, combined with observations of young people, information provided by young people and their parents/carers, and data obtained from other agencies.
29. Judgements about gang associations and risk of CSE are made via a screening tool and intelligence obtained from young people, their parents/carers, police and other agencies. Caution is needed when interpreting gang and CSE judgements due to the significant role played by professional discretion in obtaining accurate and complete information.
30. A proven re-offence is defined as any offence committed in a one-year follow-up period that leads to a court conviction, caution, reprimand or warning in the one-year follow-up or within a further six-month waiting period to allow the offence to be proven in court.
31. Centre for Justice Innovation analysis based on National Statistics (2020). *Proven reoffending statistics: January to March 2018*. Available at: <https://www.gov.uk/government/statistics/proven-reoffending-statistics-january-to-march-2018>.
32. Ministry of Justice and Youth Justice Board (2019) Youth Justice Statistics 2017/18.
33. Ministry of Justice and Youth Justice Board (2020) Youth Justice Statistics 2018/19.
34. The 10-point checklist is used to inform decisions about whether to prosecute offences committed in children's homes. It sets out the required information before a proper decision can be taken on looked after children (this includes all voluntary arrangements, foster placements and secure training centres); see also The national protocol on reducing unnecessary criminalisation of looked after children and care leavers, Home Office, Ministry of Justice and Department for Education, November 2018.
35. A Magistrates' Court summons telling an individual when to attend court and what they have been charged with. This is sent after someone has been 'released' by police under investigation.
36. HMCTS (2019) The Crime Programme Youth Project. Youth Service Design and Delivery.
37. Home Office (2020) *Police Powers: Pre-charge Bail Government consultation*. Available at [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/879759/20191127\\_ConDoc\\_PCB\\_May.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/879759/20191127_ConDoc_PCB_May.pdf)
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40. For more on procedural fairness in a court setting see Phil Bowen and Emily Gold Lagratta (2014) *To be fair: procedural fairness in courts* (Centre for Justice Innovation / Centre for Crime and Justice Studies). Available online at <https://justiceinnovation.org/publications/be-fair-procedural-fairness-courts>
41. Bowen, P. and Whitehead, S (2015) *Problem-Solving Practice: An Evidence Review*. Centre for Justice Innovation: London.
42. The practice of having more cases than it might be possible to hear to ensure court time gets used if there are adjournments or if defendants or witnesses fail to attend.
43. All the young people we interviewed had experienced only the traditional courtroom layout.
44. HMCPSI (2020) *Serious youth crime: A review of how the CPS handles serious youth crime*. Available at <https://www.justiceinspectors.gov.uk/hmcpsi/wp-content/uploads/sites/3/2020/03/Serious-youth-crime.pdf>
45. See Annex A, Table 1 for a fuller account of this guidance.
46. Tom Tyler (2006) *Why People Obey the Law* (Princeton NJ, Princeton University Press).
47. As recommended in the Youth Court Bench Book (2017).
48. Collins. (2020). 'Inside HMCTS: A fresh, young perspective on court information.' Available at: <https://insidehmcts.blog.gov.uk/2020/02/28/a-fresh-young-perspective-on-court-information/>
49. Special Measures introduced in the Youth Justice and Criminal Evidence Act (YJCEA) 1999 allowed various adaptations to be made to how evidence was given by young witnesses (under 18 years).
50. Bowen, P. and Whitehead, S (2015). *Problem-Solving Practice: An Evidence Review*. Centre for Justice Innovation: London.
51. We did not interview any staff from social services for the research; therefore, perspectives on input and working relationships are those of court and YOS staff only.

52. Comprised looked after child, interim care order, on child protection plan or Section 31 order where local authority applies to court to take a young person into LA care.
53. See for example Bowen and Whitehead (2015) and Ward J (2018) Problem-solving criminal justice: Developments in England and Wales, Utrecht Law Review for further discussion.
54. Justices' Clerks Society (April 2019) Guidance for Magistrates attending Youth Order Review Panels.
55. Initiated by Wrexham Youth Offending Service.
56. This protocol is in addition to the guidance for magistrates which is included in the Youth court Bench Book
57. Standards set out by the Ministry of Justice on the minimum expectation for all agencies that provide statutory services for children in the youth justice system.







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