

## **The benefits of participation for young offenders**

**Purpose:** This paper evaluates the benefits of participation for young offenders. It also explores some of the challenges giving young people ‘a say’.

**Design:** This paper reviews and critiques a number of published sources, including peer reviewed journal articles. By critically reviewing the literature, it intends to promote discussion and **ignite** debate on the topic of ‘offender participation’.

**Findings:** This paper argues that if young people are given a voice and provided with the opportunity to influence how a service is implemented it is more probable that the child will be ‘rehabilitated’. Furthermore, participation has many benefits for the individual child. More specifically, not only does it increase levels of engagement and compliance with a particular form of intervention or programme, but by being involved in the process, the child’s self-esteem increases, making ‘motivation to change’ more likely.

**Originality:** This paper argues that despite good policy and practice intentions, the involvement of young offenders in the design and delivery of youth justice services requires further development. Indeed, there needs to be greater opportunities provided to young people, across the Youth Justice System, to ‘share their views’ and influence practice.

### **Introduction**

The right to ‘have a say’ is outlined in Article 12 of the United Nations Convention on the Rights of the Child (UNCRC). The UNCRC promotes the wellbeing of all children, in particular acknowledging that young people have a ‘right’ to be consulted ‘with’ on matters that affect them. Indeed, the UNCRC promotes the idea that young people should be involved in defining their needs.

However, in effect ‘its implementation, far from being consistent and universally applied, remains arbitrary and uneven’ (Scruton and Hayden, 2002:324). Indeed, in youth justice there appears to be confusion as to whether young people who have offended deserve to ‘have a say’ and participate in the design and delivery of youth justice services (Hart and Thompson, 2009). In other children’s services, however, there is not this type of philosophical debate, as rights are promoted, and participation is encouraged. **However, one example of where the**

## **Youth Justice System has tried to involve young people in the decision making process is through the Referral Order.**

Referral Orders are community sentences given to children between the ages of 10-17 appearing in a youth or magistrates court for the first time. As part of the court order the child attends a panel meeting, where, the space is provided for young people to actively participate in the process.

This paper evaluates the benefits of participation for young offenders and discusses some of the challenges giving young people ‘a say’.

The paper argues that if young people are given a voice and provided with the opportunity to influence how a service is designed and implemented, it is more probable that the child will be ‘rehabilitated’. Furthermore, it argues that participation has many benefits for the individual child. More specifically, not only does it increase levels of engagement and compliance with a particular form of intervention or programme, but by being involved in the process, the child’s self-esteem increases, making ‘motivation to change’ more likely.

### **Context**

The Children Act (2004) created the role of the Children’s Commissioner whose role it was to ensure that the ‘child’s voice’ was heard in both the political arena and practice setting. Similarly, the Every Child Matters (ECM) agenda (HM Government, 2004) had at the centre of it the ‘child’s voice’. In accordance with this agenda, organisations within children’s services (and partner agencies including youth justice services) were required to promote the wellbeing of children and young people and ensure that their needs were ‘taken seriously’ and issues or concerns were ‘acted upon in an appropriate manner’ (HM Government, 2007).

These inclusive aspirations are realised in practice when we consider the treatment of children who are looked after by the Local Authority. For example, it is compulsory for an independent reviewing officer (IRO) to be appointed with responsibility for ensuring that the wishes and feelings of children in care are given ‘full consideration’ under section 118 of the Adoption and Children Act (2002) (Hart and Thompson, 2009).

More specifically, IROs are tasked with ensuring that the care plan devised reflects the young person’s ‘wishes’. Principally, IROs investigate whether proper consideration has been given

to the service user's perspective. The intention of the IRO is to assess how much involvement the child has had in their personal care plan and whether their wishes have been 'properly implemented' (Hart and Thompson, 2009). As opposed to mere attendance, the IRO investigates 'active' levels of participation and involvement.

Similarly, in youth work participation is realised through meaningful consultation and the active involvement of young people to shape and develop the service. Indeed, the space is created for individuals to 'join together' and organise activities (Smith, 2011). Street-based youth work is a good example of this. Here relationships are fostered and the personal, social and emotional development is enhanced through the creation and deployment of active and enjoyable activities centred on the needs of the individual. It is often those individuals who are resistant to seek help and support due to feelings of hostility towards professionals that benefit from this type of youth work (Smith, 2011).

Street-based youth work was used during the English Riots of 2011. Through hearing and acting upon the 'voices' of youth, recreational activities were used with some individuals to steer them away from involvement (or further involvement) in the disturbances (Smith, 2011). Here, for example some young people expressed concern at unlawful policing practices and how they felt unfairly targeted and discriminated against. Thus, youth workers acted upon these concerns and engaged in a dialogue between the youth and the police (Smith, 2011).

These informal youth work practices are informed by the belief that young people should be 'active partners' in the process. Arguably the insight provided by service users and the equal sharing of power allows for respectful and inclusive practice to emerge (Smith, 2011). In youth justice, though, it is less clear whether young offenders should be provided with the opportunity to 'have or say' or merely attend and 'join in' a specified activity (Hart and Thompson, 2009). **However, an example of where the Youth Justice System has tried to involve young people in the decision making process is through the Referral Order. This community sentence promotes participation and to some extent the equal sharing of power. More specifically, they encourage young people to play an 'active part' in the process.**

### **Participation in Youth Justice**

The Referral Order is a community sentence given to a child (between the ages of 10-17) appearing in a youth or magistrates court for the first time. The child has to plead guilty in order to be eligible for a Referral Order. As part of the court order the child attends a panel meeting, made up of representatives from the local community and members of the Youth Offending Service. Here the child discusses how they could repair the harm. Rather than interventions being imposed on them, an order of this type allows young people to 'have a say' on what work will be done. Indeed, it is a sentence that allows young people to 'speak for themselves' (Crawford and Newburn, 2002).

Although Referral Orders provide young people with the opportunity to put their side of the story across, for some young people the purpose of the panel meeting was not understood (Newburn, et al., 2001, 2002). In one evaluative study, despite young people participating in the panel process, almost 90 per cent of what was 'agreed' to be done to 'repair the harm' was not decided by the child, it was either the decision of panel members or youth justice workers (Newburn, et al., 2002).

However, in order for work with offenders to make a 'real impact', it is argued that the child should be engaged and consulted with throughout (NYA, 2011a). If the child is provided with the opportunity to participate, it is deemed to be an 'effective' way of working towards a reduction in crime<sup>1</sup> (NYA, 2011a). It is argued that 'the more that participation principles are adhered to, the better the chance of success' (Nacro, 2008:6). Indeed, what children most value about an intervention or programme is a caring relationship with a practitioner who listens to them and gives proper regard to their wishes and feelings (Hart and Thompson, 2009; Nacro, 2008).

However, in comparison to the emphasis on effective programme intervention, there has been less research done on the 'characteristics of effective staff practice' (NYA, 2011a:6). Having said that, what is clear is that putting the needs of the child at the centre, demonstrating 'empathy and genuineness; the establishment of a working alliance; and the adoption of person-centred, collaborative and 'client driven approaches'' (McNeill, 2006:130) are key to 'effective practice' with young offenders. Indeed, participatory approaches, it is argued, 'are a necessary pre-condition for effective work to bring about a reduction in (re) offending and

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<sup>1</sup> Although, it must be acknowledged here that there is a lack of evidence regarding whether 'active participation' leads to improved outcomes in youth justice (NYA, 2011a).

thus make a real impact' (NYA, 2011a:8). Despite the benefits of a participatory youth justice, young people - even though they value the opportunity - are not always asked for their point of view.

However, a culture should exist that promotes the 'right to information, expression of views and ... participation in decision-making' (Scruton and Haydon, 2002:325). In Nottinghamshire, for example, young people have been provided with the opportunity to feedback on the design and delivery of the services they have received (NYA, 2011a). There are other examples of 'good practice' in youth justice in Rotherham and Flintshire where young people have participated, to some extent, and been involved in the planning, delivery and evaluation of services (See NYA, 2011a, b).

### **Interventionist diversion**

In Wales the idea of active engagement is realised through the Swansea Bureau scheme. It is child, rather than, offender focussed and has demonstrated this commitment by being UNCRC compliant, particularly with its acceptance of article 12 (Haines, *et al.*, 2013). This pro-social interventionist project embraces the idea of systematic diversion - away from formalised criminal justice intervention and onto informal mechanisms of non-stigmatising support. It is an approach that is deemed to be non-criminogenic.

Although, at first hand, it appears to be a scheme that offers much promise, the Swansea Bureau does not extend to young people committing more serious crimes or those subject to statutory intervention. It also cannot be overlooked that there still exists – although to a lesser extent – a degree of responsabilisation where it operates within a 'crime control' rationale. However, it offers much promise in regard to promoting inclusion, and it avoids the dangers of labelling, and stigmatising young people by way of unnecessary criminalisation (Creaney, 2012a). It is somewhat predicated upon the idea that formal criminalisation and repeated contact with the system is harmful in the longer term (McAra and McVie, 2010).

However, in England, although the intention was to work towards achieving 'positive outcomes' the pre-occupation with risk assessment and risk management has resulted, at times, in professionals acting as technicians, unable to act independently (Creaney, 2012a, 2012b). In turn, practitioners have experienced difficulties delivering innovative, engaging methods of intervention and creative child-friendly forms of practice (Creaney, 2013).

However, the introduction of various schemes (including Triage, and Youth Justice Liaison and Diversion Schemes) and their subsequent intentions to avoid ‘formal processing’ demonstrates commitment to overcoming dominant bureaucratic aspects of practice (Creaney and Smith, 2014).

The Triage purports to overcome unnecessary criminalisation by reducing the amount of professional involvement, an approach that is in support of ‘swift justice’, embedding ‘minimum intervention, maximum diversion’ (McAra and McVie, 2007, 2010). On the other hand, the Liaison and Diversion schemes promote a welfare driven, supportive solution, where the social context or circumstances linked to offending become the focus. In addition to these approaches, the Youth Restorative Disposal is in operation and appears to be in favour of ‘community solutions’, where the intention is for the intervention to benefit victims of crime alongside offenders by facilitating reconciliation.

The opportunity for young people to ‘have a say’, though, in these types of programmes, or indeed across the Youth Justice System, is littered with challenges. Most notably, there is the difficulty approaching the question of whether we ‘enforce’ (control) or ‘enable’ (care) - acknowledging that the former could result in ‘resistance’; the difficulty identifying appropriate and ‘effective’ methods of engagement; and the issue of ‘staff culture’, and ‘commitment’ towards participatory ways of working; and a lack of confidence in the required skills and knowledge (Hart and Thompson, 2009; NYA, 2011a).

Having said that, it is argued that young people and their parents ‘welcome the opportunity’ to ‘have a say’ and become more involved in the planning of interventions. As Hart and Thompson (2009:4) note ‘participative approaches can improve outcomes. If young people feel listened to, they value the experience and their behaviour is likely to improve...’.

Indeed, it is important to promote an inclusive and participative culture where professionals ‘perceive, treat and view children with respect, dignity, and understanding to maximize both potential and capacity for positive change’ (Almond, 2012:147). In practice this could be achieved by involving children in ‘consultation and participation processes shaping their futures’ (Case, 2006:3). Indeed, as Armstrong (2006:276) notes ‘to engage with young people we have to listen to them without trying to cure them of their problems’.

## **Conclusion**

As Rose (1989:121) notes ‘childhood is the most intensively governed sector of personal existence’. This level of governance is realised through the type of ‘hysteria’ experienced regarding ‘stranger danger’ and regulation over the places and spaces children occupy (Goldson, 2008). These concerns ‘have combined to limit the visibility, activity and social interaction of children and young people in the public sphere’ (Goldson, 2008:90).

The idea that we live in a ‘risk adverse society’ is commonplace and has resulted in a ‘culture of fear’ directed at youth, where, there are worries for a child’s safety alongside fear of what they may become. The focus on restriction, regulation and control is most evident in the treatment of the anti-social child, or young offender.

Targeting ‘youth’ who are thought to be ‘at risk’ of offending (and the practice of managing risk with those already involved in crime and subject to youth justice processes) appears to be the priority in contemporary youth justice (Goldson, 2008). Indeed, whereas welfare, justice, and children’s rights, at varying times, have been dominant paradigms in youth justice history, the contemporary focus has shifted towards risk<sup>2</sup>. Driven somewhat by adult anxieties, this ideology of risk, igniting regulation and control over young people’s lives through various forms of ‘intrusive’ social and criminal justice measures, incorporates a vision of young people as dangerous, and threatening (Kemshall, 2008).

However, the Swansea Bureau in Wales, is an innovative ‘child first, offender second’ initiative, prioritising the ‘welfare’ of children and advocates the promotion of their human rights (Haines, et al., 2013). Here, young people are encouraged to become involved in decision making processes. This project purports to reduce the chances of young people being further marginalised, and allows for stereotypes to be challenged - particularly where young people are ‘blamed’ for their situation (Smith, 2008). These blaming tendencies are evident in a range of social policy domains where ‘control’ as opposed to ‘care’ and ‘notions of family inadequacy’ and ‘fecklessness’ feature heavily (Collett, 2013).

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<sup>2</sup> That said, there are a number of ways children are ‘governed’: youth justice policy and practice is far from uniform, it is littered with ‘paradox’, ‘irony’ and ‘contradiction’ (Harris and Webb, 1987). Indeed, it cannot be over emphasised that ‘systems of youth justice’ experience difficulties between ‘*whether young offenders should be cast as “children in need of help, guidance and support” or as “corrupt, undisciplined and evil beings” who fully deserve their just deserts*’ (Muncie, 2002:143).

The Swansea initiative embraces the idea that professionals working with young people who offend should demonstrate emancipatory values and principles, where children's rights take precedence over wrongs done. This project appears to have created the space and opportunity to work towards addressing the underlying causes of crime, notably the structural constraints that can severely impact on a young person's offending career and deny opportunities for successful integration into society (Yates, 2010).

However, managerial processes and targets appear to constrain levels of professional autonomy in practice with young offenders in England (See Fitzgibbon, 2009). This has been evidenced throughout the stages of assessment, planning and intervention, where, a preoccupation with 'ticking boxes' (Smith, 2008) - and the demonstration of 'measurable and cost-effective outcomes that are amenable to audited accounting' (Muncie, 2002) – is now common place.

Despite these constraints, service user participation should be encouraged. Although children may not wish to take part in programmes of intervention, due to a lack of confidence in ability or may not be aware of how exactly they can participate, active involvement has 'real benefits' (Nacro Cymru, 2009). For example, the child's self-esteem and confidence may develop and if the child is involved, it helps them to understand the process better and engage with the intervention.

However, the talk of participation is added to existing systems of 'target hardening' 'zero-tolerance' and controlling strategies that, arguably, 'take precedence over any initiative which may promise a more lasting settlement' (Muncie, 2002:159).

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