

Bridging the care-crime gap: reforming the youth court?



[HTTPS://THENAYJ.ORG.UK/CMSADMIN/UPLOADS/REFORM
OF -YOUTH COURT-FINAL-25TH-OCTOBER.PDF](https://thenayj.org.uk/cmsadmin/uploads/reform_of_youth_court-final-25th-october.pdf)

TIM BATEMAN

CHAIR NATIONAL ASSOCIATION FOR YOUTH JUSTICE

UNIVERSITY OF BEDFORDSHIRE

Why is reform necessary?

- Considerably fewer children appear in court than 15 years ago but ...
- Those that do may be particularly vulnerable
- Increased overrepresentation of minority children
- A lack of effective participation
- Perceptions of (un)fairness
- *'Too often children are the passive recipients of justice and do not understand the process to which they have been subjected. In addition, the way children are currently dealt with in the criminal courts does not provide sufficient opportunity to understand the causes of their offending'* (Taylor, 2016)



How do we understand the problem?

- Children who come to the attention of the youth justice system share many characteristics of children in need of care and protection
- Looked-after children are between three and five times more likely to receive a formal youth justice disposal
- Youth courts *'are only able to focus on the offence, and not the child and the wider circumstances contributing to their behaviour'* (Carlile, 2014)
- The youth court *'does not have the means to identify and tackle the [child's] underlying problems'* (Stanley, 2021)
- *'There are no mechanisms to facilitate collaborative, joint or even joined-up decision-making'* between the family and youth justice systems (Munby, 2017)



A proposed solution?



- Problem-solving courts? Or more radically ...
- The idea that the youth court and the family court should merge into a single jurisdiction has attracted increasing attention (Munby, 2017; Stanley, 2021)
- In some cases as a '*long-term aspiration*' (Carlile, 2014)

Does a unified jurisdiction address the problems?

- There was a single jurisdiction for most of the 20th century until the Children Act 1989 established the family proceedings court
- The merged jurisdiction was characterised by '*conflict and confusion*' (Harris and Webb, 1987) and did not guarantee that welfare considerations would be addressed
- In the 4 years from 1974, convictions of children rose by 20%; child imprisonment grew to a level that was '*without historical precedent*' (Millham, 1997)
- Reservations about mixing justice and welfare were also apparent within children's social care: '*The stigma of criminality was thought to extend to children and young people who were the victims of adult abuse or neglect, but whose future was determined in a court associated with crime*' (Curtis, 2005)



Bridging the care /crime gap?

- The youth court is in vertical alignment with the adult criminal court rather than in horizontal orientation with court structures for determining other issues in relation to children's upbringing
- A loss of youth specialism because of court closures and reduced youth court throughput
- Developing a specialist youth court workforce – youth court magistrates and DJs appointed as child specialists rather than youth work being an add on

