

Children First, Offenders Second: The Centrality of Engagement in Positive Youth Justice

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Abstract: Contemporary European youth justice practice, notably in England and Wales, fosters retrospective, risk-focused and reductionist views of children. Enforced, inequitable, prescriptive and adult-led youth justice relationships adulterise children and responsabilise them fully for their offending behaviour, disengaging them from constructive youth justice interventions. This article sets out and evidences an alternative model of youth justice: Children First, Offenders Second (CFOS). The CFOS model offers a whole child, preventative and diversionary approach that normalises offending by children and promotes strengths and positive behaviour. The model is grounded in the principles of child-friendly, child-appropriate and legitimate practice as a means of engaging children with youth justice services and interventions. Evidence of how these key principles have been animated in local practice is provided and implications for engagement in the youth justice context are discussed.

Keywords: engagement; children first; youth justice; positive

This article presents and explores the concept and practices of ‘engagement’ in youth justice practice through the *Children First, Offenders Second (CFOS)* perspective (Haines and Drakeford 1998; Drakeford 2010). There is a degree of ambiguity in the youth justice arena surrounding the much-neglected and under-researched concept of ‘engagement’. For the purposes of consistency and transparency, we will subscribe throughout to the working definition of engagement as ‘young people’s personal motivation and commitment to involvement in activities’ (Mason and Prior 2008, p.12). The engagement of children and young people¹ is considered to be an essential component of ‘effective’ youth justice practice and essential to the pursuit of a multiplicity of goals such as the prevention and reduction of offending (see Prior and Mason 2010). If children are to benefit from youth justice ‘interventions’, they must be enabled to engage with these interventions, otherwise they are likely to become further

disengaged, to experience further disaffection, to be ‘disabled’ from benefiting from support mechanisms, and to actively or passively inhibit the intervention from achieving its goals. To these ends, the guiding principles of the *CFOS* model seek to enable practitioners to work with children in a manner that they are capable of engaging with and responding to. The *CFOS* model promotes relationships between children and youth justice practitioners that are child-friendly, child-appropriate and considered to be legitimate by participants, and which are posited as leading to positive outcomes for those children (cf. the *All Wales Youth Offending Strategy* – Welsh Assembly Government and Youth Justice Board (2004)). In this article, the engagement-focused *CFOS* is presented as a direct challenge to the disengaging, neoliberal risk-based youth justice practices that pervade international youth justice systems (YJSs), notably those of England and Wales.

Disengaging Youth Justice

Reflecting the development of a growing number of European YJSs from the 1990s onwards (Dunkel *et al.* 2010), the YJS of England and Wales has been characterised by neoliberal correctionalism (seeking to correct offending as the outcome of deficiencies in the individual) through the application of disengaging justice-based approaches to youth offending and the neoliberal ‘responsibilisation’ of children for their offending behaviour (see Dunkel *et al.* 2010; Muncie 2008). These neoliberal elements of policy and practice are commonly linked to punitive sentencing and prescriptive, coercive, excessive offence and offender-focused intervention. For inspiration, such approaches draw on *actuarialism* (Feeley and Simon 1992) and other *dividuated* practices (O’Malley 1996) such as typically over-psychologised, off-the-shelf programmes (for example, victim awareness, anger management, restorative justice)² – an approach characterised by Morgan (2003) as ‘programme fetishism’.

The prescriptive and coercive nature of neoliberal youth justice policies and practices contradicts the goal of facilitating children’s positive engagement with youth justice processes. Risk-based approaches have emerged as the logical driver of neoliberal correctionalism and responsibilisation in youth justice. The archetypal neoliberal, risk-based and disengaging (for example, non-consultative, prescriptive) YJS in Europe is that of England and Wales (see Dunkel *et al.* 2010; Muncie 2008). Here, youth justice policy and practice is driven by a strict adherence to the technical, mechanical and psychosocial explanations of youth offending that are generated by the ‘Risk Factor Prevention Paradigm’ – a model prioritising the identification of ‘risk factors’ predicting future offending and located in psychosocial (psychological, family, school, peer, neighbourhood) domains of children’s lives, and targeting these factors with putative preventative and ameliorative interventions (Farrington (2000); see Case and Haines (2009) for a detailed critique). This paradigm has become highly influential in explanatory and practice terms across international YJSs (see

Dunkel *et al.* 2010). Approaches to the delivery of youth justice that privilege the quantified assessment of risk (of offending/reoffending/reconviction) and targeted intervention to address identified risk, foster a homogenised, retrospective, deficit-focused, reductionist view of children and their (offending) behaviour (Case and Haines 2009). They are typically driven by an enforced, inequitable, prescriptive and adult-led relationship. These processes tend to blame children for their offending and disengage them from constructive youth justice interventions, simultaneously deprofessionalising practitioners and disengaging them from the organisations and systems within which they function (see Gray 2013).

Considerations of *engagement* have been little more than an addendum to recent youth justice policy and practice in England and Wales. Although research has asserted the need for ‘understanding and addressing the “fluid dynamics” of children’s “lived experiences”’ (Farrow, Kelly and Wilkinson 2007, p.87) and the importance of focusing in more detail on the nature of engagement in youth justice practice, such research has tended to de-emphasise the role and influence of children’s perspectives and experiences in favour of focusing on practitioners and the skills they need (for example, communication and empathy) in order to form engaging relationships with children (Mason and Prior 2008). The concept of engagement has been largely understood from the perspective of adult practitioners, rather than prioritising the need to enhance children’s motivation and commitment to become involved in youth justice activities, thus missing the point that if it is to be effective, engagement needs to be understood and practised from a child’s perspective. Conversely, research in related fields (for example, youth work, education, substance use) *has* identified the value children place on relationships based on trust, respect, fairness and voluntarism/choice (see Ipsos MORI 2010; Wright *et al.* 2009). It is these features that enable children to make the crucial distinction between actual engagement with intervention and mere participation in intervention (Ipsos MORI 2010); features that are facilitated by holistic assessment models and consultation processes (Wright *et al.* 2009).

Disengaging Risk-based Assessment and Intervention

An inherent irony of youth justice practice in England and Wales, shaped and driven by risk-based assessment and intervention, is that the nature of its ‘engagement’ processes (for example, court-ordered contact, programmes and interventions) serve to *disengage* the target population (that is, children) from participation, commitment and compliance (see Ugwu-dike and Raynor 2013) with youth justice practitioners and practice. Disengagement is largely a product of the nature of official contact and interventions, which are typically *enforced*, adult-led and proscribed (by courts, youth justice agencies, Youth Justice Board (YJB) policy and guidance). Central to disengaging practice in the YJS of England and Wales³ is the ‘Scaled Approach’, which dictates that the frequency, intensity and duration of intervention should be proportionate (scaled) to a child’s level

of 'risk' of reoffending (Youth Justice Board 2009) as assessed by a youth offending service⁴ (YOS) practitioner. Risk is measured by 'Asset', a practitioner-administered and interpreted questionnaire that reduces the measurable risks in children's lives to a series of 'dynamic' (changeable) and psychosocial risk domains,⁵ understanding the real-world influences on their offending as restricted bundles of quantifiable risk 'factors', interpreted solely from the practitioner's perspective. There is only limited scope for the child's self-assessment of risk factors and little assessment of socio-structural influences such as social class, poverty, unemployment, social deprivation, neighbourhood disorganisation and ethnicity (see Case 2006) or other elements of a child's life that they may deem important (for example, bullying, access to leisure, relevant educational or employment opportunities, etc.). By virtue of its restricted perspectives, Asset has the potential to disengage practitioners from the children with whom they work through an inherent reductionism – removing understandings of offending away from the child's own interpretations and lived realities (see Farrow, Kelly and Wilkinson 2007). Assessment outcomes are further removed/disengaged from children's lived realities by the simplistic identification and quantification of risk factors through dichotomous (yes/no) responses and rating scales.⁶ The product of this ostensibly common-sense approach to assessment and intervention is, therefore, a reliance on reductionist and practitioner/adult-led quantifying processes. Reductionist and adult-centric risk assessment renders 'risk' a practitioner-rated static 'artefact' or factor that harms passive, non-agentic children and an influence that can only be interpreted and given meaning by adults, with limited grounding in the dynamic complexities and nuances of children's perceptions, experiences and social constructions. In this way, the assessment process itself is dehumanising and disengaging. It could also be argued that the outcomes of this assessment process can act to further alienate the children exposed to them, because the pre-programmed psychologised interventions that result from risk-based assessments are highly attenuated from the lived experience of the children subjected to them (see Gray 2013). Consequently, neoliberal, risk-based (assessment and intervention) practice can produce double-disengagement – disengaging the assessed influences on offending behaviour from the realities of a child's life and disengaging the child subjected to assessment from the (inappropriate, invalid) interventions informed by it.

Evaluation of the Scaled Approach has produced empirical data indicative of the damaging, disengaging nature of risk-based youth justice. A secondary statistical analysis of YJB reconviction data for every YOS in England and Wales identified that across the measurement period, the YOS evidencing the highest *increase* in reconviction rates (+62%) had assiduously piloted the Scaled Approach (Haines and Case 2012) and had been, somewhat paradoxically, heralded as the exemplar of how the Scaled Approach can enable a YOS to achieve 'a positive result' and 'improve their outcomes' (Youth Justice Board 2009, p.7). Conversely, the other pilot YOSs had mitigated the Scaled Approach by ameliorating the risk focus and retaining a wider concern about the welfare of children, leading

to a combined *decrease* in reconviction rates of 3%. In his evaluation of the Scaled Approach pilot exercise, Sutherland (2009) interviewed YOS practitioners and found that most were more concerned about meeting children's welfare needs than targeting risks through their assessments and interventions (see also Gray 2013), largely because 'individual practitioners disagree with the practice model being proposed and the use of Asset more generally' (Sutherland 2009, p.54). The implication here is that practitioners, too, have become disengaged by the risk-based assessment processes forced upon them and have decided to pursue their own (often welfare-focused) objectives and principles as a more engaging alternative to enable children to realise the benefits of youth justice assessment and intervention. It must be stressed that the importance and value of engagement with children in the YJS is neither disputed nor denied by policy makers or practitioners across the YJS. However, the current structures, mechanisms, systems and foci of youth justice in England and Wales at best inhibit, and at worst deny, the opportunity for engagement by those children targeted by them, making the need for a radical rethinking about children's engagement with the YJS both manifest and pressing.

Engaging Children and Young People: Welsh Government Policy

The broader social policy context in Wales offers the potential for an alternative model of youth justice; one that is child-friendly, child-appropriate, legitimate and that redresses the disengaging and deficit-focused nature of risk-based youth justice. A more engaging and positive child-friendly approach would radically reorientate traditional offence/offender-focused youth justice towards a much closer consideration of the young people themselves and their unique status as a child. Social policy for children and young people in Wales since (the partial) devolution in 1999⁷ has been explicitly grounded in the United Nations Convention on the Rights of the Child (UNCRC) 1989 (UNICEF 1999). Policies are underpinned by a set of fundamental collectivist, rights-based and pro-child principles, specifically: the *engagement and participation* of children and young people in *universal services* (not narrowly-targeted provision) and the pursuit of *equality of outcome* over equality of opportunities (Drakeford 2010). For example, the Welsh Government's youth inclusion strategy 'Extending Entitlement' (National Assembly Policy Unit 2002) details ten universal entitlements⁸ (rights) for every young person (aged 11–25 years) in Wales, including those children in the YJS (see Haines 2009). The entitlements are informed by the UNCRC and adopt a language of entitlement that marks 'a shift in the conceptual basis towards a rights based approach' (Save the Children 2007, p.4). The Welsh Government extended this commitment to the UNCRC explicitly with its 'Seven Core Aims' for children in Wales,⁹ outlined within the 'Rights to Action' policy document (Welsh Government 2004). Most recently, the rights-focus of Welsh policy was consolidated in law through the 'Rights of Children and Young Persons (Wales) Measure' 2011 (Welsh Government

2012a), which places a statutory duty on Welsh Government ministers to have due regard to children's rights, as outlined within the UNCRC, in all discussion, policy and practice relating to children and young people. The integration of a rights focus into the youth justice arena began in 2004 with the publication of the All Wales Youth Offending Strategy (AWYOS), a partnership between the Welsh Government and the YJB. The AWYOS espouses the principle that children who enter the YJS 'should be treated as children first and offenders second' (Welsh Assembly Government and Youth Justice Board (2004, p.3); see also Haines (2009) for a fuller discussion).

Engaging Youth Justice: *Children First, Offenders Second*

The CFOS model conceives of offending as only one element of the child's broader social identity (see Drakeford 2010), rather than their defining master status. Accordingly, all youth justice practice (for example, assessment, intervention, review) under CFOS should be *child-friendly*, *child-appropriate* and focused on the *whole child*, examining the full complexity of their lives, experiences, perspectives, needs and their multi-faceted, context-specific interactions. CFOS requires that youth justice responses position *children as part of the solution, not part of the problem* – with practitioners and policy makers working in *partnership with children* to hold their interests, needs, rights and views as paramount throughout the youth justice process. CFOS also moves practitioners away from the deficit-focused model of youth justice (in which they are berated for their individual failings), towards a positive, child-appropriate approach in which children are rewarded for their achievements. CFOS further requires that adult practitioners view themselves as working *for* the children with whom they engage, rather than as representatives of other interest groups (for example, the YJS, community, victims). Consequently, the priority for adult practitioners working in the YJS must be to *engage* closely and regularly with children. It is crucial, therefore, that children who come into contact with the YJS are *facilitated* (by adult practitioners) to express their views on issues that affect them (cf. Article 12 of the UNCRC), *enabled* to participate equitably in decision making regarding their futures, and that access to their universal entitlements as set out in progressive policy statements and international conventions is *promoted*. These features coalesce to produce a model of delivering youth justice that can be viewed as *legitimate* to children (for example, moral, fair, deserved, equitable), thus increasing the likelihood of them investing in, and committing to, the approach. In this way, children's engagement with youth justice practice and practitioners goes deeper than the fundamentals of voluntarism, trust, respect and fairness (although these remain essential building blocks of the engagement relationship) and moves towards more positive notions of partnership, reciprocity, investment, the legitimate participation in decision-making processes and the achievement of (and recognition for) positive outcomes. The central tenets of CFOS are outlined in *Table 1* and

TABLE 1
The Central Tenets of Children First, Offenders Second

<i>Children First, Offenders Second</i>	Neoliberal youth justice
1 Child-friendly and child-appropriate	Adulterised
2 Legitimate to children	Labelling and stigmatising
3 Diversionary	Punishment/justice or welfare-based
4 Prevention as inclusionary	Prevention as exclusionary
5 Evidence-based partnership	Programme fetishism
6 Systems management	Unprincipled net-widening
7 Partnership with the State	Distrustful of the State
8 Responsibilising adults	Responsibilising children

contrasted with what we see as the central, defining features of modern youth justice in much of the industrialised Western world, notably England and Wales.

Youth justice practice in Wales emphasises preventative and diversionary responses (out-of-court) over pursuing children's compliance with statutory court orders – although the principles discussed apply equally to children experiencing formal court orders. The following sections outline, explore and evidence the extent to which *CFOS* seeks to engage with children through the promotion of:

- 1) *Child-friendly and child-appropriate* approaches to the delivery of engaging diversionary youth justice services;
- 2) *Legitimate* engagement between children and adult practitioners to prevent offending.

1) *CFOS is Child-friendly and Child-appropriate*

The hegemonic risk-based approach to youth justice practice in England and Wales engenders repressive and controlling responses to children in the YJS. The privileged approach to dealing with children who offend is that of *adulterisation* – treating them as fully independent, capable, mature and responsible 'mini adults' who are thus deserving of punitive and responsibilising responses in accordance with this status. There is a host of broader social harms and issues inherent to processes of adulterisation, *inter alia*: criminalising already disadvantaged and distressed children through net-widening and the creation of negative perceptions of childhood, responsibilising children as a driver of institutional intolerance, non-compliance with international children's rights standards and incompatibility with youth justice practice across other European systems (Goldson 2013; see also Crofts 2009; Maher 2005). The youth justice responses that result from adulterised views of children can disengage recipients because they do not seek to work in child-friendly ways or at a child-appropriate level that children can understand and participate in. This problem of disengagement is exacerbated by the failure to solicit

the perspectives of children as a conduit to valid, responsive, engaging interventions.

CFOS pursues inherently child-friendly and child-appropriate responses to offending and problematic behaviour through an explicit reversal of the adulterisation process. Rather than treating children as mini-adults with the associated maturity and capabilities to make independent decisions about their behaviour and take full responsibility for these decisions (cf. Freeman 2007), *CFOS* obligates the key stakeholder adults who make daily decisions about children's lives (for example, YOS staff, teachers, youth workers, police officers, social workers, magistrates) to take full responsibility for the nature and outcomes of their decisions. It is imperative that decisions regarding how to respond to children's behaviour are implemented with the best interests of the child as primary, focused on facilitating the child's achievement of positive outcomes (for example, gaining access to their universal rights as children) and reached through inclusionary processes, in order to maximise the likelihood of children engaging in decision-making processes and committing to the success of the actions and responses that flow from them. Recognising adults' responsibility for decision making regarding children is central to the UNCRC, which pursues universal *minimum standards* for the treatment of children, including those who come into contact with the YJS. *CFOS* is broader and more ambitious – charging adults to enable all children to achieve *maximum positive outcomes* (for example, attaining academic qualifications, gaining employment, participating in social, leisure, artistic, musical and sporting activities). However, notwithstanding the degree of responsibility assigned to adults for engaging with children in the pursuit of positive outcomes, it is fundamental to *CFOS* that children are not characterised as merely the non-agentive, passive recipients of adult decision making or as 'crash test dummies' (Case and Haines 2009), unable to resist the inevitably deleterious effects on their behaviour of (risk) factors outside of their control. Prosocial, desistance-focused, strengths-based, capacity-building, 'good lives' models are driving the evolution of adult-focused justice responses (Ward and Fortune 2013; McNeill 2009), yet equivalent child-friendly, child-appropriate methods are relatively under-researched and under-emphasised within the youth justice arena.

The *CFOS* approach provides the conceptual space to view children as creative, resourceful individuals capable of experiencing, interpreting, negotiating, resisting and constructing forces and influences in their social and personal worlds and thus capable of changing their own behaviours. *CFOS* promotes children's strengths, capacities, positive behaviour and positive outcomes for children through engagement-facing practice. Children and adults work together to facilitate children's access to, and motivation to engage with, their universal entitlements to services, opportunities, support and information (as, for example, set out within the Welsh Government's 'Extending Entitlement' youth inclusion strategy – National Assembly Policy Unit (2002)).

The animating features and child-friendly nature of the *CFOS* approach have been evidenced by the 'Swansea Bureau', a partnership

between Swansea YOS and South Wales Police. The Swansea Bureau, which began in April 2009, functions as an alternative model of youth justice, delivering out-of-court, out-of-the formal YJS, diversionary, preventative, non-criminalising disposals and supportive interventions to children who come to the attention of the police due to offending behaviour¹⁰ (see Haines *et al.* 2013). The five-stage Bureau process begins with arrest and bail (stage one), with Bureau staff determining the child's eligibility for diversion based on their offending history, the nature of their offending and the contributory factors and any known mitigating circumstances. This is followed by a two-week long whole child assessment (stage two) using information from a broad range of stakeholders (for example, police, YOS, social services, schools) to identify underlying problems being experienced by the child, as well as strengths and/or positive influences in the lives. Victims' views and needs are then assessed (stage three), informing a subsequent multi-agency Bureau Panel (stage four), which discusses the assessment report and makes a provisional decision on appropriate action.¹¹ The summative Bureau Clinic (stage five) employs a restorative conferencing/partnership model with the child and their parent/carer to reach a mutually-agreeable decision regarding the most appropriate course of action. The decision reached at the Bureau Clinic may be for prosecution to proceed; alternatively (and increasingly) the decision may be a non-criminal disposal (NCD) – which can be the end of the matter or it may be accompanied by (voluntary) engagement for the young person or their parent/carer in supportive intervention. The central objective of the Bureau is to provide individualised, flexible, multi-agency service delivery, located within a preventative, prosocial model. Support services are delivered by the YOS and a range of community-based organisations, targeted on addressing children's identified needs, ameliorating the causes of their offending and promoting positive outcomes (Haines *et al.* 2013).

The Bureau approach embodies the *CFOS* model in its emphasis on processes and interventions that are:

- **Child-friendly** – the causes of offending, the unmet needs and problems associated with it and the strengths and positive features in the child's life are all identified and explored through a diversion-focused eligibility assessment (stage one) and a detailed, holistic child-focused assessment process is conducted with multiple key stakeholders (stage two). This broad assessment procedure informs child-friendly decisions regarding actions and interventions (stage four) that focus on promoting positive behaviour and responsabilising adults to enable children to access services that meet their needs and identified problems. The final decisions (stage five) are reached in a child-focused, rights-compliant manner through consultation with the child and their family;
- **Child-appropriate** – Bureau processes (at all stages) are child-appropriate in that they seek to normalise offending behaviour by responding to it as an everyday youthful behaviour caused by unmet needs and identifiable problems. Offence- and offender-focused thinking and responses are de-emphasised in favour of developing an

understanding of the child's behaviour in its full social context. Consequently, adult practitioners must take responsibility for helping the child to address needs and problems by working with children and their families in appropriately engaging ways (for example, consultation, joint discussion and mutually-agreed actions at stage five). The central objective of the decisions that emerge from the Bureau is to divert children towards appropriate (responsive, needs-led, non-punitive) actions and interventions that are both preventative and promotional (of strengths and positive behaviour) and away from the inappropriate, deleterious and criminalising consequences of contact with the formal YJS (see also McAra and McVie 2007).

The *CFOS* model, animated and exemplified by the Bureau, offers an alternative approach to counter the disengaging (of children), interventionist and net-widening tendencies of the formal YJS (cf. Goldson and Muncie 2006). This does not constitute an argument for (radical) non-intervention *per se*, but rather for non-formal intervention, asserting that children evidencing problematic, challenging behaviour (for example, low-level offending, anti-social behaviour, substance use) should be *worked with* by practitioners using appropriately diversionary, preventative, and promotional approaches driven by the formation of constructive, engaging relationships, rather than being *dealt with* by disengaging and stigmatising formal youth justice processes. In order that such child-friendly and child-appropriate processes, decisions, actions and interventions are engaged with, it is essential, however, that they are seen as legitimate by the children they wish to engage.

Evidence of the Impact and Effectiveness of the Bureau. An evaluation of the introduction of the Bureau (Haines *et al.* 2013) conducted secondary statistical analysis of Bureau data. Analyses identified annual *decreases in first-time entrants (FTEs) into the YJS* locally: from 289 in 2008/09 (the year before the Bureau began) to 159 in 2009/10 (45% decrease) to 147 in 2010/11 (8% decrease) to 86 in 2011/12 (41% decrease) to 69 in 2012/13 (20% decrease). The number of *NCDs increased annually in number and as a proportion of all disposals* given to children coming to the attention of the YJS for the first time. In 2008/09 (pre-Bureau) no NCDs were given, but in 2009/10 there were 110 NCDs (constituting 41% of all disposals), rising to 123 in 2010/11 (46% of all disposals), to 154 in 2011/12 (63% of all disposals) to 147 in 2012/13 (67% of all disposals). Furthermore, the Bureau approach is having a *positive impact on rates of reconviction*. Children who received a NCD had a lower rate of reconviction in both 2009/10 (9%) and 2010/11 (11%) compared with reprimands (11% and 21%, respectively), final warnings (19% and 27%) and prosecutions (38% and 15%). The data clearly show that the Swansea Bureau approach is exerting a clear impact on youth justice decision making and outcomes for children; diverting increasing numbers away from the potentially criminalising, stigmatising and disengaging influence of contact with the formal YJS.

2) *CFOS Promotes Legitimate Engagement between Children and Practitioners to Prevent Offending*

In order that youth justice practitioners can engage with children in child-friendly and child-appropriate ways, it is essential that the services and interventions they provide are seen as *legitimate* by those children who receive them. Children who view authority and the discharge of authority by the State and its agents as legitimate (moral, just and fair) are more likely to live within the law and either not come into contact with the YJS or not reoffend following contact (Case, Haines and Charles 2012). Children who perceive that their interactions with youth justice agencies and agents (for example, police officers, courts, YOS staff) as legitimate, are more likely to engage with youth justice interventions and to benefit from them (Hawes 2013). Conversely, if children perceive the law and their interactions with agents of the YJS to be illegitimate (immoral, unjust and unfair), then a legitimacy deficit will accrue and social order is likely to break down, manifesting in individual resentment (for example, lack of engagement, further offending), thus producing a deviancy amplification effect. Legitimacy is a central driver of the *CFOS* model, but the concept is important beyond its facilitation of the social order at a conceptual level. It is also crucial to promoting children's engagement in (involvement in and commitment to) youth justice practices, services and interventions at all levels. In what follows we illustrate how legitimacy has been pursued in the context of prevention programmes in a local area.

Research-based partnership working between local children, youth justice practitioners and university researchers began in 1996 with the Promoting Positive Behaviour (PPB) programme. PPB targeted the prevention of secondary school exclusion (see Haines and Case 2003). Researchers surveyed and consulted local secondary school children (using questionnaires and focus groups) to identify and discuss the main correlates of school exclusion in key domains of their lives (school, family, neighborhood, peer group, thinking, and attitudes). The correlates identified by local children were then targeted by the PPB steering group through the creation and extension of bespoke preventative service provision (see Haines and Case 2003), notably: whole school behaviour codes (to address inconsistent discipline and understandings of school rules), family group conferencing (to work with all relevant parties to draw up positive solutions to the commonly identified problems of disaffection and disruptive behaviour in school). Action planning panels (youth justice practitioners collaborating with education and social services staff to allocate resources to children based on individualised needs), a Youth Access Initiative (alternative educational provision for children disaffected from school) and a Community Service Volunteers scheme (in-school mentoring and out-of-school befriending by young adults). Rooting PPB in the views of children gave rise to a focus on activities that differed from those that key adult stakeholders saw as important (for example, prospective, individualised participatory programmes to address fears about the future

versus adult-centric, system-wide, structural changes), which was seen as essential if the programme was to be meaningful to children.

The practical outcomes of the PPB research precipitated a successful bid for YJB funding (in 2000) for a multi-agency youth crime prevention programme entitled 'Promoting Prevention'. An evaluation of Promoting Prevention was conducted with 553 local secondary school children who were surveyed using a child-friendly, interactive computerised questionnaire to enable them to identify the potential correlates with offending behaviour and the factors that would help them to desist and to achieve positive outcomes (see Case and Haines 2004; Haines and Case 2004). The questionnaire results were utilised by the Promoting Prevention steering group to target child-appropriate supportive services and interventions in-school and within the YOS (rather than just in-school, as with PPB) that were responsive to the needs and problems identified by children. Several existing services were significantly extended as a result of the Promoting Prevention research: Swansea Training Centre (providing vocational alternatives to formal education for disaffected children), the Guiding Hand Association (a charity offering vocational, educational, recreational and social skills courses to socially and educationally disaffected children), the Careers Business Company (an independent careers advice organisation that committed to bespoke provision for children working with the YOS) and Involve 'Just Us' (linking adult volunteer mentors to disaffected children in and out of school). In terms of the demonstrable impact of these changes to provision, it is notoriously difficult to trace causal linkages between universal prevention programmes and changes in behaviour and outcomes for children. However, over the period of the evaluation of Promoting Prevention (2000 to 2004), several indications of positive change were identified: annual decreases in the *number of offences* committed by children in Swansea (Isles 2010) from 2,044 in 2001/02 to 1,802 in 2002/03 (a 12% decrease) to 1,601 in 2003/04 (a 11% decrease), a statistically significant decrease ($p < 0.001$ using the Chi-squared test) in *self-reported active offending* (committed in the past year) within the Promoting Prevention from 43% of the sample to 19% (Haines and Case 2004), a decrease in the *percentage of school exclusions* over five days (including permanent exclusions) from 17% in 1999 to less than 14% in 2003/04 (City and County of Swansea Education Department 2005).

The Promoting Prevention research prompted the roll-out of local child-led, consultative prevention approaches further still (in terms of their foci and contributing partners) into the wider community beyond the YOS and the school into the family, neighbourhood, community. In 2010, a successful bid for funding from the National Institute for Social Care and Health Research gave rise to the 'Pentrehafod Prevention Project' (PPP), a multiple intervention programme to promote social inclusion and positive outcomes for children through universal family, school and community intervention (subject to ongoing evaluation – see Case, Haines and Charles (2012)). Thus far, PPP has exerted an influence locally by embedding principles for working with children in accordance with a rights-led CFOS approach. The secondary school at the centre of the research has become

the first in Wales to be recognised by UNICEF as a ‘Rights Respecting’ school – one which places the UNCRC at the heart of the school’s planning, policies, practice and ethos, including prioritising (engaging) relationships between adults and children (UNICEF UK 2014). The approach is based on promoting legitimacy in relationships between children and teachers. For example, the school’s Rights Respecting status is maintained and developed through a ‘Child Rights Committee’ that helps to inform school policy and practice and which seeks to engage children both in terms of developing school policies and in its implementation.

Evidence of the Impact and Effectiveness of Legitimate Engagement. The extent to which the legitimacy-focus of the CFOS approach fosters engagement with youth justice practice and outcomes has been evidenced in the youth crime prevention approach adopted in Swansea. The ‘children first’ ethos of listening to children and taking their views seriously has driven the development of preventative youth justice practice locally. An iterative, incremental series of legitimacy-based, consultative, research-informed prevention programmes have evolved into a coherent body of youth crime prevention policy and practice (see Case and Haines in press, 2008, 2004; Haines *et al.* 2013; Haines and Case 2012, 2005). Local programmes and interventions have evolved from targeting the underlying influences on problem behaviours and the barriers to children achieving positive outcomes, to explicitly addressing how best to promote and sustain prosocial and positive outcomes for children such as social inclusion, community engagement, academic success and accessing their universal rights.

The first empirical investigation to utilise legitimacy theory to research the dynamics of social order at a community level, solely from the perspective of children, was conducted from 2009 to 2012 by Hawes (2013). Research with secondary school children aged between 11 and 16 years focused on their perceptions of the nature of relationships with adults in the child’s daily activities. Findings from this study highlighted that where children perceived that adults (for example, police, teachers) treated them fairly, showed them respect, showed them an element of trust and were able to communicate effectively with them, then positive, durable and long-term relationships with those adults developed. In the context of these relationships, children reported more prosocial attitudes and behaviour (Hawes 2013). Conversely, where adults failed to treat children legitimately (failed to show respect or trust, treated them unfairly or failed to communicate with them in what the child considered to be an acceptable manner), then children were unlikely to form positive relationships with those adults, were more likely to be non-compliant and (some) adopted anti-social attitudes and behaviour.

Findings from the localised legitimacy research have been consolidated by ongoing empirical qualitative research with local children examining how they understand and experience the extent and nature of their *participation* in youth justice decision-making processes (Charles and Haines, in press). Based on the tenet that children are the experts in their

own worlds and thus hold knowledge that adults do not (cf. Lancaster and Broadbent 2003), the research identified *participative quality* as the central driver of effective youth justice practice from the child's perspective – the extent to which children felt able to contribute to decision making in an autonomous, equitable manner without hindrance, coercion, control or enforcement from adults. Charles and Haines (in press) found that adult practitioners were perceived as overvaluing adult-centric decision making at the expense of inclusionary and equitable (legitimate) relationships with children guided by child-friendly standards such as using non-complex language, appropriate, digestible presentations (in reports and meetings) and non-hierarchical models of participation.

Evaluative research partnerships between researchers, YOS staff and local children have generated evidence that has catalysed the iterative local approach to constructive intervention (for example, PPB – see Haines and Case (2003), Promotion Prevention – see Haines and Case (2005); Case and Haines 2004, PPP – see Case, Haines and Charles (2012)). At each developmental stage, research methods and outcomes have been driven by the legitimate engagement of children as partners in the generation, interpretation and dissemination of knowledge and the planning and targeting of child-appropriate services. Children have been consulted on appropriate research processes and outcomes to be measured, whilst also being involved in the design of child-friendly research instruments to ensure appropriate research foci, language, accessibility and comprehensibility – thus maximising the meaningfulness and potential impact of the research (cf. Charles and Haines (in press); Howard League 'U R Boss' programme for engaging young people within the YJS and leaving custody). The prevention of problematic behaviour (a somewhat negative term that has characterised much prevention work) has been predicated locally on the (child-friendly) promotion of positive behaviour and the (child-appropriate) embedded engagement of children – eliciting their perspectives on issues that affect them and taking their views seriously (rather than exploiting consultation as a token exercise). For prevention to be viewed as legitimate by children they must not be viewed as a problem to be fixed by adult practitioners in youth justice organisations, but as part of the solution. Practice is all too often *done to* children by practitioners, rather than *conducted with* them (Fraser *et al.* 2003). Engaging partnerships between local children and (youth justice) practitioners have been catalysed by including children in the decision-making processes that affect them (in line with Article 12 of the UNCRC) – using focus groups with secondary school and 'non-mainstream' (YOS-based) children to identify and negotiate what constitutes child-friendly, 'meaningful' and engaging participation (Charles and Haines in press). This inclusion in the development and delivery of preventative services (for example, children identifying suitable targets for preventative intervention) and diversionary services (for example, children included in decisions regarding appropriate responses to behaviour that has brought them to the Bureau) is a child-friendly, child-appropriate approach that promotes legitimacy in the eyes of local children.

Children First, Offenders Second: Engaging Children in the YJS

It is clear that youth justice practice in England and Wales, notably the risk-based assessment and intervention framework, constitutes an approach that disengages both children and practitioners from positive processes of change. Retrospective, risk-led, reductionist practices have served to responsibilise children, rather than working with, and listening to, children – engaging them in child-friendly, child-appropriate, legitimate responses that foster their motivation and commitment to involvement in activities and interventions. In contrast, the *CFOS* model sets out principles for youth justice practice that are child-friendly, child-appropriate and a legitimate partnership model within which children can participate and which contributes to intervention and service planning that is future-orientated and that addresses their self-assessed needs, rights, strengths and potentialities. *CFOS* posits an engaging approach to youth justice working with children that has a coherent *philosophy*, an explicit sense of *purpose* (engaging children as part of the solution, not part of the problem) and engaging practitioners through clear *goals* (responsibilising adults, evidence-based partnership working) and clearly articulated, desirable *outcomes* for children (positive behaviour, access to rights/entitlements). Crucially, it would appear that the evolution of *CFOS* has not been hindered by the growing devolution of the youth justice agenda in Wales. According to key reviews, many associated services that target factors related to offending by children are already devolved (for example, education, social services, health) and it has been (and should continue to be) possible to build and progress a distinct Welsh youth justice within the current settlement (see Silk Commission 2014; Welsh Government 2012b, 2011; Morgan 2009). Consequently, the Welsh Government and YJB Cymru (the Welsh division of the YJB) have retained both the (policy) commitment and the (practice) capability to develop the *CFOS* approach to youth justice, as evidenced by the revised enhanced AWYOS, which builds on the emerging ‘children first’ distinctiveness of Welsh youth justice (Youth Justice Board and Welsh Government 2014).

The philosophy of *CFOS* acts as a touchstone against which staff can assess their daily practice and seek to better engage the children with whom they come into contact. *CFOS* de-emphasises responding/reacting to children in the YJS as offenders, or in terms of their offence, and emphasises engaging with children, first and foremost, by recognising their status as children. The *CFOS* approach does not seek to dictate to policy makers or to tell practitioners *what* to do when engaging children; instead, it places the child at the heart of the system, makes service delivery responsive and the achievement of maximum positive outcomes primarily the responsibility of the adults involved. At its core, *CFOS* seeks to establish key principles for youth justice policy and practice that establish a consistency to *how* practitioners and the YJS can engage with children in ways that are appropriate, principled, valid and legitimate from the perspectives of those children and, thus, can increase the chances of creating effective, engaging practices, programmes and interventions.

Notes

- 1 We use the terms 'children' and 'young people' interchangeably and synonymously throughout (although we tend towards 'child' and 'children'), in accordance with the UN Convention on the Rights of the Child (UNCRC) designation of a 'child' as anyone below 18 years of age (UNICEF 1999). In the current article, the reference population is typically 10- to 17-year-olds, the age range for criminal responsibility in the youth justice system (YJS) of England and Wales.
- 2 Exemplified in the Youth Justice Board (YJB)'s 'Key elements of effective practice' (see Mason and Prior 2008).
- 3 The disengaging risk focus for practice with children has been reflected across the broader social policy context (particularly in England), notably in relation to tackling social exclusion, disaffection, academic underachievement, psychological and physical health and poverty by targeting 'at risk' individuals (HM Government 2005; Department for Education and Skills 2003; Social Exclusion Unit 2000, 1999; see also Turnbull and Spence 2011). More recently, the risk agenda has been broadened to children and their parents through the 'Troubled Families Programme', which targets families facing a multitude of interrelated social problems (risks) and who cause problems for others (Department for Communities and Local Government 2012).
- 4 Multi-agency teams in every local authority area in England and Wales, consisting of representatives from the police, probation, health, local authority and (where appropriate and available) from voluntary and charitable services.
- 5 Living arrangements, family and personal relationships, education, training and employment, neighbourhood, lifestyle, substance use, physical health, emotional and mental health, perception of self and others, thinking and behaviour, attitudes to offending, motivation to change.
- 6 Providing an aggregated rating for each domain based on 'the extent to which [that domain] is associated with the likelihood of further offending (0 = not associated, 4 = very strongly associated)'. The risk domain scores are then totalled to represent the young person's likelihood of reoffending and the score is used to determine the frequency and intensity of intervention received through the Scaled Approach: standard intervention/low likelihood, enhanced intervention/medium likelihood and intensive intervention/high likelihood. Intervention is thus 'scaled' (quantitatively) to match the young person's risk assessment score.
- 7 Partial in that certain policy areas (for example, relevant to children and young people) have been devolved, such as education, health and social services, whereas other child-relevant areas are non-devolved and thus led by the UK government. The most notable of these is youth justice.
- 8 Access to essential services, opportunities, information and guidance relating to, *inter alia*, education/training/employment, basic skills, volunteering, careers, health, housing, sport, art, music and decision making (National Assembly Policy Unit 2002; see also Haines, Case and Portwood 2004).
- 9 The core aims cohere around ensuring that children: have a flying start in life, access to education, training and learning, opportunities, optimal physical and mental, social and emotional health, access to play, leisure, sporting and cultural activities, are listened to and treated with respect, have a safe home and the community supporting physical and emotional well-being, and are not disadvantaged by child poverty.
- 10 From 2009 to 2012, only children who were first time entrants (FTEs) into the YJS were eligible for Swansea Bureau disposals; all other children were subject to formal youth justice processes. Since 2012, all children who offend in Swansea are eligible for the Bureau. The Bureau model is being rolled out across YOSs in Wales.
- 11 From 2009 to 2012, the out-of-court disposals available to the Bureau were: non-criminal disposal (NCD), police reprimand, final warning, or prosecution if an out-of-court disposal is deemed inappropriate. However, since the Legal Aid, Sentencing and Punishment of Offenders Act 2012, the available out-of-court disposals are community resolution (termed 'Youth Restorative Disposal' in Swansea – effectively replacing the old 'NCD'), youth caution and youth conditional caution.

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Date submitted: March 2014

Date accepted: May 2014