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Supporting children's meaningful participation in the youth justice system

Professor Hannah Smithson and Dr Paul Gray

HM Inspectorate of Probation

Academic Insights 2021/10

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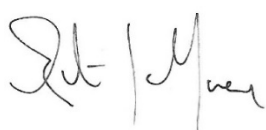
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Foreword

HM Inspectorate of Probation is committed to reviewing, developing and promoting the evidence base for high-quality probation and youth offending services. *Academic Insights* are aimed at all those with an interest in the evidence base. We commission leading academics to present their views on specific topics, assisting with informed debate and aiding understanding of what helps and what hinders probation and youth offending services.

This report was kindly produced by Hannah Smithson and Paul Gray, summarising recent work across Greater Manchester which enabled the co-creation with justice-involved children of a transformative framework of practice, termed Participatory Youth Practice (PYP). The PYP principles are grounded in children's rights and an ethos of meaningful participation, highlighting the need to help children to problem solve, to find better options, and develop their ambitions. The paper concludes with a 'How to Guide' for co-creation and participation. Essential ingredients are fostering equitable relationships, gaining trust, creating safe spaces, ensuring clarity of purpose, and investing the necessary time and resources. Within HM Inspectorate of Probation, we will continue to examine the sufficiency of the focus upon the voice of the child across all of our inspections.



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The views expressed in this publication do not necessarily reflect the policy position of HM Inspectorate of Probation.

1. Introduction

This *Academic Insight* focuses on children's participation in decision-making in youth justice systems. In theory, young people in conflict with the law have the legal right to have their opinions taken into account, and are entitled to contribute to a criminal justice system's response to their own behaviour (see United Nations Committee on the Rights of the Child (UNCRC), 2007; 2008). Indeed, the *UNCRC General Comment No 24* (2019) reflects developments that have occurred since 2007 – effective participation in justice proceedings (art. 40 (2) (b) (iv)) states that 'a child who is above the minimum age of criminal responsibility should be considered competent to participate throughout the child justice process.'

However, in practice, systemic neglect of children's views and participation pervades contemporary youth justice practices. This Insights paper will provide an overview of the benefits and challenges of developing and enabling participatory approaches in youth justice systems, and concludes with a 'How to Guide' for co-creating children's meaningful participation in the development of youth justice service provision and practice.

We will draw on a knowledge transfer partnership project (KTP) 2015-2017,¹ a partnership between Manchester Metropolitan University and the Greater Manchester youth offending services. The project enabled the co-creation with justice-involved children of a transformative framework of practice, termed Participatory Youth Practice (PYP). The unique co-productive element facilitates children's meaningful participation in decision-making. It is a formative step in the translation of participatory philosophies into a comprehensive framework of practice (see Smithson et al., 2020; Smithson and Jones, 2021).

¹ Funded by the Economic and Social Research Council (ESRC) and the Arts and Humanities Research Council (AHRC).

2. Co-creating a framework of practice

2.1 Participatory practices in youth justice

Children's rights and participation in youth justice

Despite Article 12 of the UNCRC clearly stating that children and young people's views should be sought in *all* matters affecting them, the extent to which this occurs in youth justice systems is questionable. Children's rights experts such as Byrne and Lundy (2019) suggest that children's rights are not upheld due to:

- a lack of awareness among children that they have the right to be heard and taken seriously
- a lack of awareness among adults that children have this right
- a lack of equitable access amongst those children experiencing systemic marginalisation to uphold their rights and participate in meaningful decision-making.

For instance, children in contact with criminal justice systems are more likely to come from ethnic minority backgrounds; to describe themselves as having mental health problems and/or substance use issues; and have spent time in local authority care (see Bateman, 2020; Fitzpatrick and Williams, 2017; Gyateng et al., 2013).

In their 2019 paper, Gadda et al. explore how a number of European countries have implemented UNCRC principles in policy and practice. Examples are as follows:

- Scotland has committed to undertake an audit of the extent to which UNCRC principles have been implemented; referred to as the 'CRC Audit' (see 2018–19 Programme for Government, Scottish Government, *Delivering for Today, Investing for Tomorrow*)
- Wales has incorporated Article 12 of the UNCRC – 'the right (for children) to have their views given due weight in all matters affecting them in accordance with their age and maturity' – into legislation (Nacro Cymru, 2009:1)
- In Ireland, a checklist of four inter-related elements – space, voice, audience and influence – needed to enable children and young people's participation in decision-making (Lundy 2007) has been incorporated into Ireland's *National Child Participation Strategy* (2015)
- A number of other European countries, notably Sweden and Belgium, have passed Government Bills dictating that all government decisions affecting children and young people are to be subject to child impact assessments (Byrne and Lundy, 2019).

However, the incorporation of UNCRC principles into the youth justice context remains 'arbitrary and uneven' (Scruton and Haydon, 2002:324).

Child first, offender second

The 2016 Taylor Review of the English and Welsh youth justice system called for 'a system in which young people are treated as children first and offenders second' (p.48). The basis of this approach is influenced by Haines and Case's (2015) 'Child First, Offender Second' (CFOS) model. CFOS is founded on the belief that 'children are part of the solution, not part of the problem' (Haines and Case *ibid*:45). CFOS advocates that 'children in justice systems should have access to their rights' and 'the voice of the child should be listened to'

(ibid.:287). The CFOS model is gaining traction in England and Wales. In 2016, the Youth Justice Board (YJB) published its Participation strategy, and in 2018, HM Inspectorate of Probation published a new framework for inspecting youth offending services.

Notwithstanding this progress, the YJB was still criticised for lacking a coherent model of children's participation in youth justice policy and practice (see Case and Yates, 2016). In its 2019-2022 Strategic Plan (2019), the YJB set out a re-alignment for a 'child-centred' ethos in which youth justice practice should be:

- in the child's best interests
- non-criminalising
- collaborative.

Children's participation in research

Within research contexts, participation is viewed as an approach that can be both 'inspiring and daunting' (Smith et al., 2010:407):

- inspiring because of the meaningful collaboration it fosters with community co-researchers
- daunting due to its many challenges, from ethical to relational (see Lenette et al., 2019).

Participatory research is grounded in the democratisation of the research process, centralising the lived experiences of the co-researchers and the breaking down of hierarchies and social injustices (see Kim, 2016). It is an approach that has significant potential for the enactment of social change in youth justice settings. Yet despite its potential, participatory research processes with children in youth justice settings are relatively rare.

Discrete projects, such as the *San Francisco Juvenile Justice Evaluation Project* (London et al., 2003), the Centre for Youth and Criminal Justice (Lightowler, 2020) work in Scotland on the projects, *Article 12* and *Our hearings, Our Voice*, and Deakin et al.'s (2020) European PROMISE project, each describe and evidence the positive outcomes that can result from supporting and letting justice-involved children participate in research and decision-making.

Models of participation

Hart's (1992) *Ladder of Participation* was one of the first models to provide a structure of participation in research – the different levels of participation represented as rungs of a ladder. The bottom rungs represent non-participation, while the higher rungs represent youth-initiated and youth-directed participation. Earlier models, such as Hart's model, have since been critiqued on the grounds that they reflect cultural hierarchical power norms and unquestioningly accept that children's participation is always a good thing. In a response, Cahill and Dadvand (2018:248) developed the P7 model, based on an acknowledgement of the 'inter-connectedness of: purpose, positioning, perspective, power relations, protection, place and process'. We have argued elsewhere (Smithson and Jones, 2021) that the most significant challenge to address in participatory research with justice-involved children is the inherent power dynamics already in play between children, professionals and researchers.

The P7 model underpins the co-creation of the Participatory Youth Practice framework that we now go on to describe.

2.2 A knowledge transfer partnership project

Our approach

The project was an innovative two-year Knowledge Transfer Partnership (KTP) between Manchester Metropolitan University and the 10 regional youth justice services across Greater Manchester. Funded KTPs require the bi-directional transfer of knowledge between academia and business. A member of the university research team was seconded to the regional youth justice services for the period of the project (2015-2017). The secondment revealed that, overall, the principles of managerialism and responsibilisation created barriers for practitioners to go much beyond the building of a good rapport with children. Organically the project's aims became:

- (i) redressing the balance of youth justice practice, with a focus on the participation of children, rather than the ideological principles of managerialism and responsibilisation
- (ii) piloting a new model of working with a focus on the bi-directional transfer of knowledge between children and the research team.

(For a full description of the project and our methods, see Smithson et al., 2020; Smithson and Jones, 2021).

Engaging children in the project

Criteria for involvement in the project was very loose – children had to be aged between 15 and 18 years old with experience of involvement with the Greater Manchester youth justice services. Working with our youth justice colleagues, 50 young people were identified and out of these, 28 young men expressed an interest in the research. They had an average age of 17, and a third were from ethnic minority backgrounds. Over two thirds were exposed to at least one adverse childhood experience growing up, including bereavement or significant loss, physical abuse and/or neglect, emotional abuse and/or neglect, and familial substance use. In addition, more than half were, or had previously been in local authority care. Working with them over a period of approximately 12 months, we began to get to know them and learn about their likes, dislikes and views of the youth justice system.

We worked with them to co-create a series of creative workshops utilising activities that they enjoyed and which would support us to work with them to explore their experiences and views in more depth. Iwasaki et al. (2014) note that participatory activities should reflect the interests of children and young people. Their interests were both physical (for example, boxing and football) and creative (art and music). Being careful to act in a 'support role' (Ozer, 2016), working with professional facilitators we ran three day-long workshops with the children covering the activities of:

- (i) boxing
- (ii) grime lyric writing
- (iii) urban art.

The workshops

Each of the workshops was held at an appropriate venue for the activity – a boxing gym, a music studio, and a community arts building. They included the chosen activities, interspersed with discussions of their experiences of the youth justice system.

- **Boxing** has been shown to be a beneficial engagement tool when working with children at risk of, or in conflict with the law (see Jump and Smithson, 2020). The boxing workshop raised discussion points about respect, discipline, confidence, and trust.
- The role of arts including the writing of poetry and prose, and the subsequent performance of this writing, has been shown to be an effective engagement approach for young people in criminal justice settings (see Winn, 2010). The **grime lyric writing** workshop raised issues around the value of legitimacy and authenticity, as well as frustrations over children's lack of voice.
- Arts-based approaches have the transformative potential of developing artistic skills, while providing an alternative platform for expressing thoughts and experiences (see Nunn, 2010). The **urban art** workshop created discussions around identity, the need for second chances, and for others to understand the reasons behind children's offending behavior.

The co-creation of participatory youth practice

Providing the opportunity for participants to be involved in the analysis of data is of vital importance in enabling them to critically reflect on the data (Fear et al., 2006). Due to ethical considerations and the volume of data, the first stage of the analysis of the findings from the workshops was carried out by the research team.

A number of themes emerged from this initial analysis which were then taken to the children to discuss at a further series of workshops. We explained to the children that they could re-explain the themes, that they could re-name them, and change the language. Some themes were expanded and others were collapsed until they eventually agreed on eight principles. These eight principles became the Participatory Youth Practice (PYP) framework:

1. *let them participate*
2. *always unpick why*
3. *acknowledge limited life chances*
4. *try to avoid threats and sanctions*
5. *help problem solve*
6. *help them find better options*
7. *develop their ambitions*
8. *remember that ultimately it's their choice.*

A [series of guides](#) were designed to support professionals to embed the principles of PYP into their practice. A final workshop was run with children in which they co-created a set of grime lyrics and a [film](#) to accompany the lyrics that explain the principles of PYP.

2.3 A 'How to Guide' for co-creation and participation

The KTP project bridged the gap between the creation of a safe space for children to tell their stories, and the development of tangible outcomes to support the transformation of youth justice policy and practice. Reflecting on the project, we have produced the following 'How to Guide' for co-creating children's meaningful participation.

Co-creating children's meaningful participation in the development of youth justice service provision and practice:

Justice-involved children have often experienced traumatic life events and are navigating complex situations. As such, their full participation in research projects and/or participatory activities may not be possible

- Children can develop participative ownership of specific elements of projects and/or activities, described as "pockets of participation" (Franks 2011:22).
- Recognising and enabling their opting in and out of projects and activities acknowledges the inherent power dynamics involved in work with justice-involved children.

Professionals can struggle to cultivate equitable relationships when children feel they do not have the necessary skills to contribute to a project and/or activities (see Nygreen et al., 2006)

- Co-creating projects and activities with children that they are interested in reverses the usual power dynamics. It supports their confidence and provides a safe space in which they are the experts.

Gaining children's trust is vital in fostering meaningful participation (see Perkins et al., 2007)

- Time must be spent gaining the trust of children. Spend time with them learning about their interests, their experiences, and their likes and dislikes. Be willing to share your ideas, your concerns, and your experiences to break down systemic hierarchies.
- Do not pressure children to take part and accept that there will be occasions when they don't show up to pre-arranged meetings and activities but welcome them back when they return.

Be clear about the purpose of children's participation as co-creators in projects and activities

- Being clear to children about the purpose of their involvement in a project and/or activity supports the building of trust and creates a safe space. Positioning children as co-creators challenges conventional views of their capabilities and can be viewed as a "threat to the status quo" (Cahill and Dadvand, 2018:250).
- Children need to be protected during the process by communicating the clarity of the purpose of their participation and co-creation to those in wider systems.

Co-creation and participation with children done badly can be damaging

- Fostering equitable relationships, gaining trust, creating space safes, and clarity of purpose are all essential when undertaking co-creation and participation with children.
- Co-creation and participation takes time and should not be viewed as a tick box exercise or a quick-win. Those embarking on such projects and or activities should be prepared to invest the time and resources needed to do the work well. A lack of recognition of the time and emotional labour exerted in this work will be damaging to children.

"Motivate the powerful" (Vaughan, 2014:19) to commit to transformative action and change

- There are myriad reasons why an individual or a team may embark on facilitating participatory approaches with children. These could include, addressing hierarchical power dynamics, giving voice to the under-represented, valuing lived expertise, and challenging social injustices. Given the relative powerlessness of justice-involved children in decision-making, the value of their participation and/or co-creation of practice and service needs to be made explicit and demonstrable to those who have the power to make transformative change.
- The pursuit of "transformative action" (Vaughan, 2014:1) should include supporting children to achieve broader change, in parallel to motivating the 'powerful'.

3. Conclusion

The PYP principles are grounded in children rights and an ethos of meaningful participation. By adopting the principles, there is an expectation that professionals are accepting of children's rights to participate in decision-making. This isn't something that should be taken for granted. Fischer et al. (2007) found that, even when practitioners are committed to integrating participatory approaches into their everyday practice, ingrained working practices, and a lack of interest from service users, can all be significant barriers. Since 2017, we have delivered PYP training to over 250 professionals and each of the Greater Manchester youth offending teams (YOTs) identified a 'participation champion' to support their colleagues in understanding the framework, and how best to embed the PYP principles into everyday practice. PYP has been embedded into the strategic plans of the majority of the Greater Manchester YOTs resulting in it becoming 'hard-wired' into youth justice service provision.

A Manchester YOT Team Manager reflected on his experience of using PYP,

"I find having conversations around the eight key areas of PYP really brings together what we do as a service. I use the same principles with my staff, getting them to take ownership of their team and the service we deliver, and having the confidence to say that we are a service that truly allows the kids to participate. Manchester's Quality Assurance Audit Moderator told me that our 'Outstanding' rated holistic interventions have the PYP Framework running through them."

Furthermore, when overseeing young people's cases, one team has replaced a set of questions addressing risk with the PYP principles, while another has integrated the principles into their supervision sessions with children. Through the creation of 'working groups' with children, one of the teams has facilitated the participation of children in decision-making about the development and delivery of new initiatives and programmes.

The Director of Targeted Services, within one of the Greater Manchester YOTs explained,

"because of the work we've done around participation in youth justice, young people are being assessed in a different way, worked with in a different way and that is a direct result of this project [PYP]".

The co-creation of the PYP framework is a formative step in advancing a tangible model of children's participation in justice systems. Its unique co-productive approach advances other youth justice participatory models and facilitates children's meaningful participation in decision-making.

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