

Youth anti-social behaviour and crime in England: an overview

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This paper aims to provide an overview of the public services which support and manage adolescents with poor conduct, anti-social or criminal behaviour in England. Specific services and policies which deal with behaviour of this kind are for the most part decentralised in England, with the exception of custodial services, making it difficult to present a national picture of interventions, particularly pre-entry to the youth justice system.

Children under 10 years who display aggressive or very disobedient behaviour may be referred to their doctor and to Child and Adolescent Mental Health Services (CAMHS), or they may be referred to behaviour management specialists within education. In some situations children's social care services may become involved and provide Family Support Workers to help parents manage behaviour. Children older than 10 who misbehave at school, for example damaging school property, will be dealt with through school disciplinary procedures but may also be referred to other services (the same as those for younger children), or they may be dealt with by the police depending on the severity and criminality of their behaviour. Outside the school gate, law enforcement agencies primarily have jurisdiction over young people's antisocial and criminal behaviour, though housing services and social landlords might also be involved in monitoring behaviour. In England, young people aged 18 and over are treated as adults by law and by most public services¹.

The paper starts by providing a snapshot of the most recent government statistics on school, police and court sanctions for youth misbehaviour over the course of one year. It describes the main organisational roles and bodies involved in managing youth behaviour in England, including the structure of the youth justice system, with a case study of one city to provide examples of local services. The paper then provides an overview of the development of England's youth justice system, with more detail on last two decades of policy-making on anti-social behaviour and youth justice. Finally the paper presents recent statistical trends on school exclusions, anti-social behaviour sanctions and youth offending.

1. Snapshot on youth misbehaviour in England and Wales

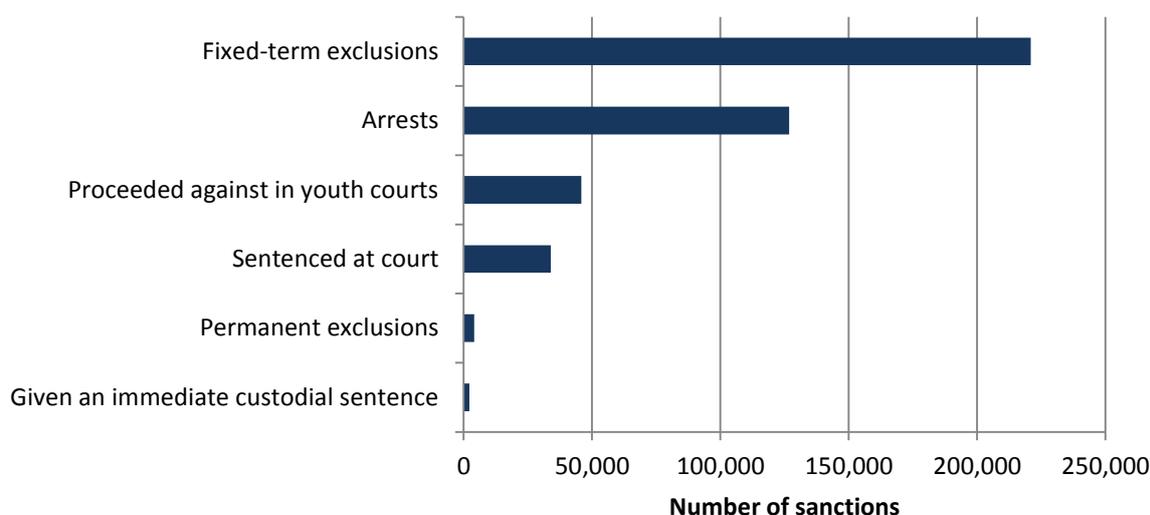
This section provides an overview of school, police and court sanctions for youth misbehaviour, primarily using figures from 2013/14. National data is not available on referrals to health services for behavioural problems, such as conduct disorder. National youth justice data is based on England and Wales, but not on Scotland or Northern Ireland; accordingly both English and Welsh data on school sanctions are provided to enable a better comparison of the different types of sanctions expended over one year. Figures on all sanctions include young people who have been subject to

¹ Local organisations may provide 'transitional' services for young people aged 16 to 25 years.

these procedures on more than one occasion in the same year. Youth population figures are based on annual population estimates for 10 to 17 year olds from the Office for National Statistics (ONS)².

In England, children may be sent away from school for a fixed number of days³ - “fixed-term exclusion” – or be excluded from school permanently for serious misbehaviour (see section 2.1). In 2013/14, around 210,500 fixed-term and 4,000 permanent exclusions were given by state-funded secondary schools in England (Department for Education [DfE], 2015, see figures 1 and 2). In the same year in Wales, about 10,300 fixed-term exclusions and 80 permanent exclusions were given by secondary schools (Welsh Government, 2015).

Figure 1: the number of sanctions given to young people in England and Wales in 2013/14⁴



In 2012/13, there were just over 126,800 arrests of young people, about 242 arrests per 10,000 youth population in England and Wales (Ministry of Justice [MoJ], 2015, ONS, 2013). About 36% of arrests resulted in a court appearance; around 45,900 young people were proceeded against in youth courts in 2013/14, about 88 cases per 10,000 youth population (MoJ, 2015, ONS, 2014). In the same year, just over 33,900 young people were sentenced at court, and three quarters of young people (74%) sentenced were found guilty of the offence (MoJ, 2015, ONS, 2014).

About 7% of young people who were sentenced were imprisoned: around 2,300 young people were given an immediate custodial sentence in 2013/14 (MoJ, 2015, ONS, 2014). The average number of children in youth custody through 2013/14 was just over 1,200 (260 of whom were on remand), and the average length of time spent in custody was 90 days (51 days for remand, 109 days for Detention and Training Orders⁵, and 409 days for longer sentences⁶, MoJ, 2015).

² 5,229,900 is the general 10 – 17 population figure from the ONS mid-year estimates for 2012 and 5,183,248 is the figure for 2013.

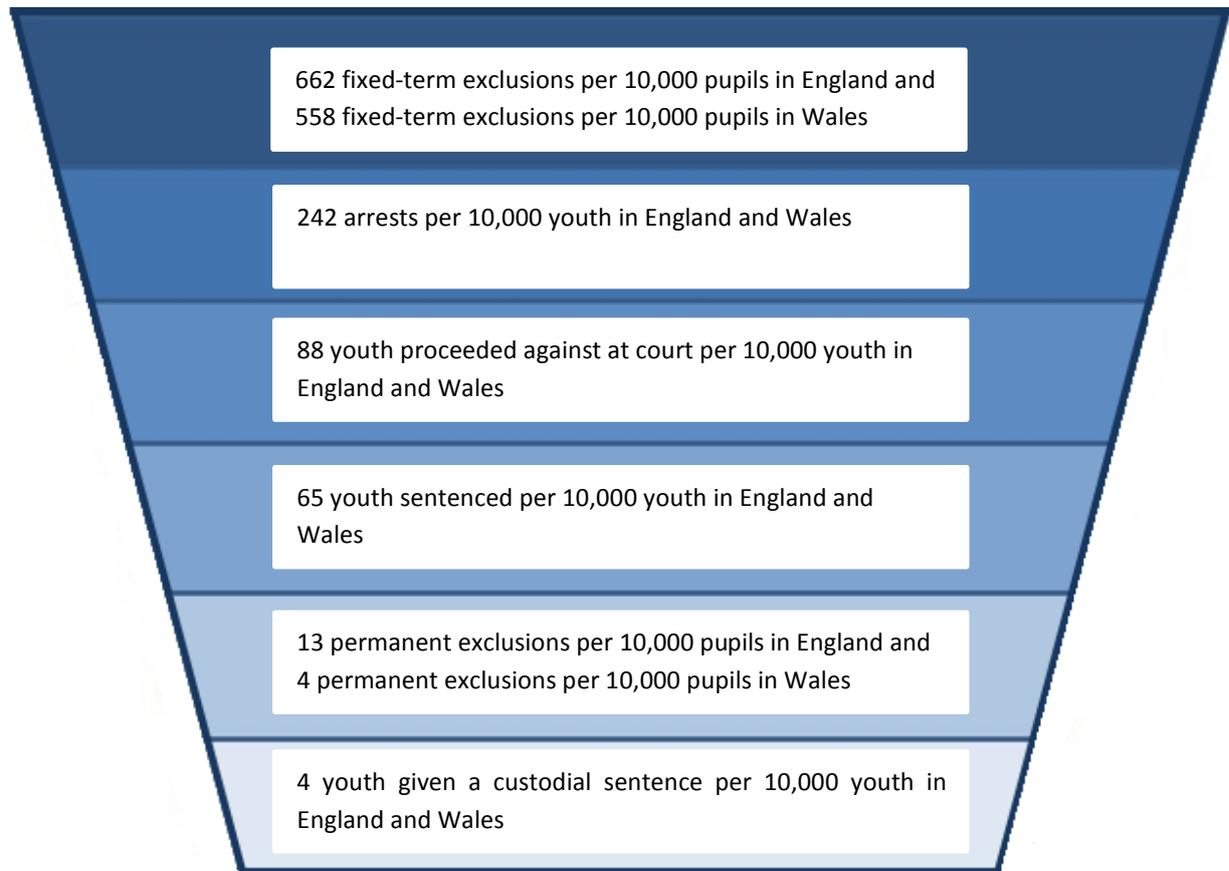
³ Fixed-exclusion periods can be given up to a maximum of 45 schools days in one academic year.

⁴ Arrest figures are based on 2012/13.

⁵ DTOs are determinate custodial sentences which can last from 4 to 24 months. A young person spends the first half of the order in custody and the second half released on licence. If they offend whilst on licence, they may be recalled back to custody.

⁶ Longer sentences are convictions for murder, offences other than murder for which a life sentence may be passed on an adult, detention for public protection, some violent and sexual offences.

Figure 2: Rates of school, policy and court sanctions for youth misbehaviour in England and Wales in 2013/14⁶



2. Organisational roles and bodies involved in managing youth behaviour in England

This section describes the main services involved with managing young people’s misbehaviour at home, school and in the community, and gives a case study of services in one city (see box 1). It then gives an overview of the youth justice system for children who have been charged with criminal behaviour.

2.1 Behavioural problems at school or at home

Behaviour standards at school and associated disciplinary penalties for breaking rules are set by the head teacher in consultation with the school’s governing body (DfE, 2014). The behaviour policy should include information on the school’s power to discipline children beyond the school gate and when to work with other local agencies (DfE, 2014). Teachers and paid school staff have statutory authority to discipline pupils for unacceptable behaviour and for breaking school rules. If a young person is absent from school without authorisation, the parent will be contacted by the school or the council’s educational welfare officer. Parents can be prosecuted for repeated unauthorised absences. Temporary or permanent exclusion can be used as a punishment “in more extreme cases” of behavioural problems, and can only be decided by the head teacher (DfE, 2014: 8). In 2013/14, one in three (33%) permanent exclusions from secondary schools were for persistent disruptive

behaviour, 14% were for physical assault against another pupil, 7% were for physical assault against an adult and 10% were for drug and alcohol related behaviour (DfE, 2015). When a pupil is excluded from school, the local authority must find alternative education provision. The most common type is a Pupil Referral Unit (PRU), a local authority establishment similar in governance to a mainstream school, but there are also specialist academies and free schools which are not maintained by the local authority. These alternative provisions cater for all children who cannot attend mainstream school including those who have a short- or long-term illness, are school phobic, teenage mothers, pregnant teenagers, or pupils without a school place.

Government guidance highlights that continuing disruptive behaviour may be the result of unmet educational or other needs, which might require a multi-agency assessment (DfE, 2012, 2014). If children are assessed as having special educational needs, they may be given extra in-school support from teaching assistants, pastoral care, or other behaviour specialists, or in cases of more severe need, move to a specialist education provider or a residential education placement.

Many schools have formal arrangements with their local police officers, a 'Safer Schools Partnership', whereby a police officer or police community support officer will regularly work at a school or across a number of schools. The officer may provide professional advice to school staff and pupils, support the school to deal with incidents and repair harm, and support information sharing across agencies (Lamont et al, 2011, Department for Children, Schools and Families, Association of Chief Police Officers, Youth Justice Board and Home Office, 2009).

Children with behavioural problems at home might be referred to Social Care services, which will assess children for high level safeguarding needs, that is, whether children are experiencing neglect or abuse. In England, Local Safeguarding Children's Boards (LSCBs) ensure that the key agencies involved in safeguarding children work together effectively. LSCBs were put on a statutory footing in 2006. Their core membership is set out in the Children Act 2004, and includes local authorities, health bodies, the police, youth offending teams and others, including the voluntary and independent sectors. Children who do not meet the threshold for social care will be referred on to other support services, such as Family Support Services provide by the council or voluntary sector providers.

There are also a number of government initiatives which target the families of children with behaviour problems. The most recently established is the '*Troubled Families*' initiative, funded and coordinated by the Department for Communities and Local Government (DCLG). A worker or team is assigned to co-ordinate services for a family with multiple difficulties including: children or adults who are involved in anti-social behaviour or crime, children who are truanting or absent from school, adults who are unemployed, and adults who are suffering from mental health problems. Local authorities receive a government contribution of up to £4,000 per family for getting children back into school, reducing youth crime or getting adults into work or training (Department for Communities and Local Government, 2014). Many local authorities have '*Family Intervention Projects*' (FIPs) which were established by the Labour government in 2006 to reduce anti-social behaviour caused by 'problem families' (Respect Task Force, Home Office, 2006). FIPs also involve a key worker or team whose role it is to co-ordinate services for the family and provide support in areas such as anger management and parenting (White et al, 2008). There are also a number of therapeutic family-based interventions running in many areas of the UK for young offenders or

children who are at risk of going into care, delivered by the independent and voluntary sector providers, for example, Multi-Systemic Therapy.

2.2 Anti-social behaviour in the community

Young people whose anti-social behaviour causes problems in the community may be dealt with by the local police ('Neighbourhood Policing Team' or 'Safer Neighbourhood Team'), or by anti-social behaviour teams set up by the local authority or not-for-profit housing providers ('Registered social landlords' or 'Housing associations'). After speaking to young people about their behaviour, authorities may ask young people to sign a non-legal, voluntary agreement about their behaviour in the presence of their parent, an 'Acceptable Behaviour Contract', and/or ask their parent to voluntarily sign a 'Parenting contract' specifying expectations about their behaviour and supervision of their child (see section 3.2). Continued misbehaviour may lead to further civil sanctions (see section 3.2).

Box 1: Case study on organisations involved in youth misbehaviour: Birmingham

Birmingham is one of England's largest local authorities with a population of about 1.1m people, of whom around 120,000 are aged 10 to 17 years (ONS, 2015a). In 2013/14, there were 100 secondary schools in Birmingham, excluding pupil referral units, alternative education provision and special schools. According to Birmingham City Council, the region's Youth Offending Service (YOS) is the largest in the country.

Birmingham Police & Schools Panels started in February 2011 as an approach for effective joint working between secondary educational establishments, the police and key partners including Birmingham YOS and the City of Birmingham School (alternative provision). Its core activities are 1) early intervention and diversion of young people from offending via two-way data sharing, 2) accountability and oversight of police School Liaison Officers (SLOs) and emergency response to incidents 3) maintaining strong relationship between the police, educational establishments and partner agencies. Since 2012, 70 schools have been involved in the Panels, nine of which operate across the city (Chester et al, 2014).

Birmingham Community Safety Partnership is a statutory partnership between the council, the police, the fire service, two probation trusts and the voluntary sector. The *Birmingham Youth Violence strategy* includes support and diversion programmes for young people, for example, mentoring, youth works in A&E departments, activities, and education and training projects.

The *Birmingham Multi-Agency Safeguarding Hub* (MASH) is the first point of contact for professionals and members of the public who want to raise concerns about a child. It is a multi-agency team which co-locates safeguarding agencies. *Birmingham Safeguarding Children Board* is a statutory panel which co-ordinates how agencies work together to safeguard and promote the well-being of young people in Birmingham and to ensure the effectiveness of safeguarding arrangements. The board is made up of senior representatives from the key statutory and voluntary organisations that have responsibility for delivering services to children or have regular contact with children. The *Family Support Team* provides services for children with additional needs.

Birmingham's "*Think Family*" programme is the name of the national 'Troubled Families' initiative, which aims to sustain children in education and parents in training or employment, reduce anti-social behaviour and crime and improve parents' parenting skills. *Multi-systemic therapy* is a provider under Think Family in Birmingham for families with young people at risk of being placed in custody or care.

Birmingham Youth Service provides young people aged 11 to 25 years with a range of opportunities, challenging experiences and effective support to enhance their personal, social and educative development and sense of identity during the transition to adulthood.

2.3 Criminal behaviour: the youth justice system in England and Wales

In England and Wales, children between 10 and 17 can be arrested and taken to court if they commit a crime – although in practice children under 12 are rarely proceeded against. There are separate types of sentence, sentencing policy, courts and secure institutions for children and adults. Young people aged 18 are treated as adults by law, though young adult offenders (aged between 18 and 20) serve prison sentences in separate Young Offender Institutions (this policy is however under review).

2.3.1 How the youth court operates

The youth court is part of the system of magistrates' courts. Magistrates are, for the most part, volunteers without formal legal qualifications, although there are a much more limited number of district judges, who are salaried full-time legal professionals. Magistrates who sit in youth courts have specific training, and are generally drawn from the more experienced of lay magistrates, or else are district judges. Youth courts are closed to the public.

When a child has come to police attention for committing a crime, the police must decide whether to issue a youth caution (or a conditional youth caution) or whether, in consultation with the Crown Prosecution Service (CPS), to charge the offender. Once charges have been laid, the CPS initiates proceedings in the youth court – unless the child has committed a grave offence or else has been charged alongside older offenders. In these cases the Crown Court may have jurisdiction. Figure 3 summarises the structure of the youth justice process

Various disposals are available to the court, and the majority of these are overseen by staff in Youth Offending Teams (YOTs). If the child pleads guilty and it is their first conviction, the court must make a *Referral Order* (unless the offence is grave or conversely so trivial as to warrant a discharge). Referral Orders involve referral of the child in question to a youth offender panel, which is made up of lay volunteers supported by youth justice worker from the YOT. The panel's task is to identify an intervention which combines reparative or restorative outcomes with ones that are preventative or rehabilitative. Table 1 presents the sentences youth courts (along with the Crown Court when sentencing a young offender) have the powers to pass.

Table 1: Sentences which can be given to young people

Sentence	Description
Conditional and Absolute Discharge	No effective penalty
Referral Order	Reparative/restorative/rehabilitative outcome, organised by young offender panel, overseen by YOT.
Fine	Upper limit of £1,000 in youth court, unlimited in Crown Court
Youth Rehabilitation Order	Equivalent to adult community penalty. Sentencers can build a series of conditions for the order, delivered by YOT.
Reparation Order	Either as a free-standing order, overseen by the YOT, or in combination with a youth community order.
Detention and Training Order (DTO)	Served in a Prison Service young offender institution, or in a local authority secure children's home, or in a secure training centre.
Sentence of detention	Available only in Crown Court, for grave offences.

In passing sentence, youth courts will usually take into account both the report that will normally have been prepared by a YOT worker and any sentencing guidelines that the Sentencing Council has issued, including one that sets out 'overarching principles' that apply to young offenders.

Children who are given a custodial remand or sentence in England and Wales are detained in one of three types of institution that together comprise the secure estate (i.e. youth prisons): Prison Service young offender institutions (YOIs); privately managed secure training centres (STCs); and local authority managed secure children's homes (SCHs). SCHs are reserved for younger and more vulnerable children. The Youth Justice Board provides funding for custodial places, which it purchases from the relevant provider (see section 2.3.2).

In England, jurisdiction over child offenders is separated from welfare interventions: the Youth Court is for criminal proceedings and the 'Family proceedings' panel of the Magistrates' Court is for welfare interventions. YOTs have no remit in relation to family proceedings.

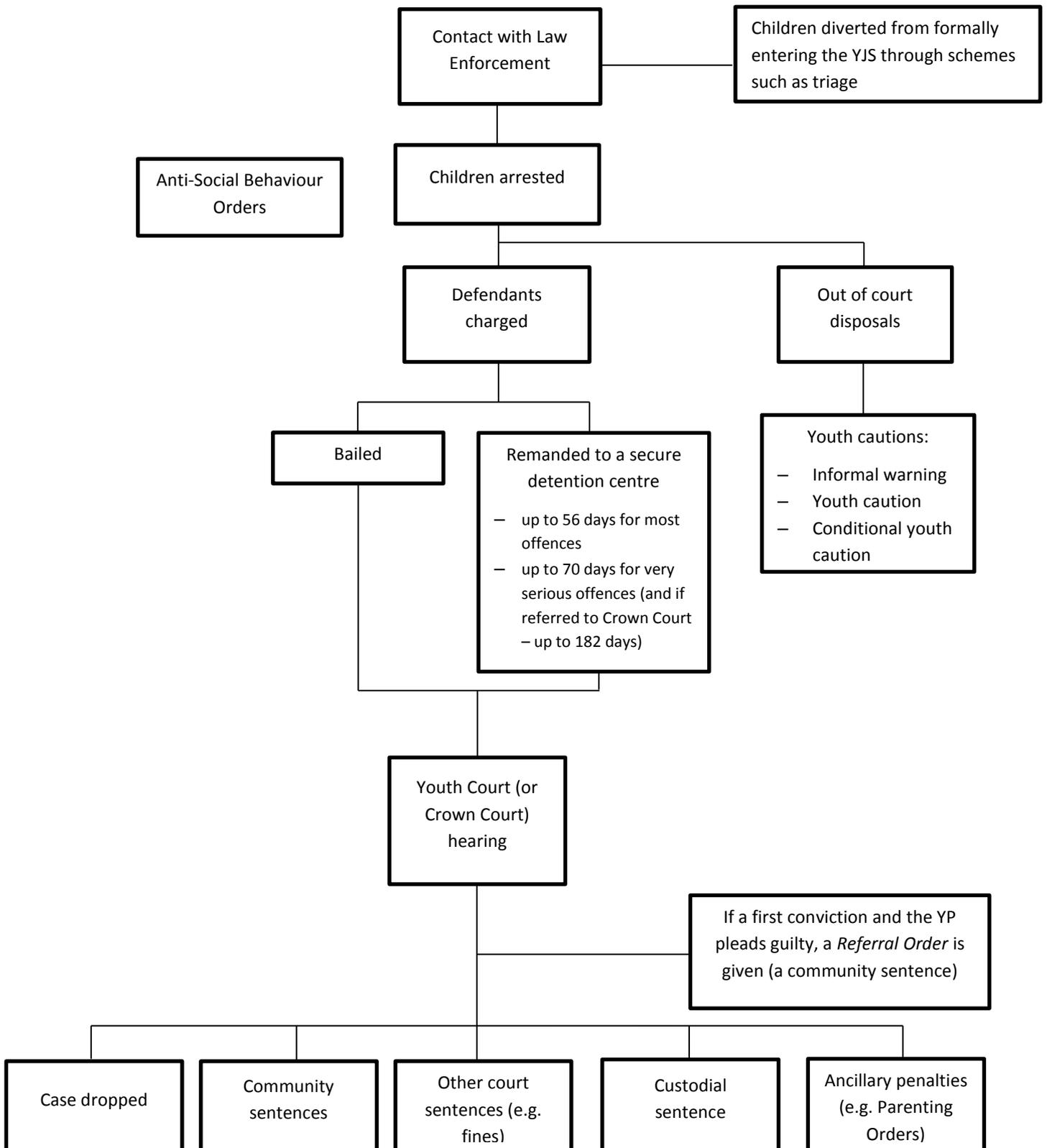
2.3.2 The organisational structure of Youth Offending Teams

The core of the youth justice system in England and Wales is a network of local Youth Offending Teams (YOTs) working under a legal framework, and overseen by the Youth Justice Board (YJB), a non-departmental public body responsible for overseeing youth justice services and placing young people remanded or sentenced to custody. YOT staff prepare reports on young offenders for the courts, and provide or oversee the main community-based disposals for young offenders.

YOTs are partnerships of organisations including the police, social services and the probation service. They run local crime prevention programmes, support young people at the police station, at court and in custody, and supervise young people serving a community sentence. Police, social work and probation staff are often seconded from their original employer. YOTs are funded mainly the local authority, supplemented by grants from the YJB and elsewhere. YOTs usually cover a single local authority area (for example, a small city, or a borough within a major conurbation) but in some cases large YOTs cover two or more local authorities. They are overseen by a management board usually chaired by an official from the local authority. Her Majesty's Inspectorate of Probation (HMIP) formally inspects the performance of YOTs.

As multi-disciplinary teams, YOTs do not have mandatory professional qualifications though a probation or social work qualification is specified by some YOTs. In general the emphasis is more on relevant professional experience.

Figure 3: Schematic map of the youth justice process in England and Wales



3. Tackling youth misbehaviour: policy developments in England

This section begins by giving a brief history of the development of the youth justice system in England. It then focuses in more detail on policy developments over the last two decades and the most recent direction of policy-making in youth offending.

3.1 The development of the judicial system for young offenders in the 20th century

Historically, children were subject to the same judicial process as adults. From 1850, however, various separate processes were introduced for children, and increasing emphasis was placed on the welfare and rehabilitation of the child. For most of the 20th century, changes in youth justice legislation in England and Wales were characterised by moves towards a welfare-orientated approach. The 1908 Children Act created a separate juvenile court for children under the age of 16 to keep them separate from hardened criminals, and the 1908 Prevention of Crime Act established specialized reformatory “borstal” institutions for juveniles (Wakefield and Hirschel, 1996). The 1933 Children and Young Persons Act was another significant piece of legislation. It formalised the requirement for the court to take into account children’s welfare (Sec. 44(1)), raised the age of criminal responsibility from 7 to 8 (Sec. 50), and 16 year olds were placed under the jurisdiction of the juvenile court (Sec. 107(1)). Local authorities (or municipalities) were required by statute in 1948 to establish children’s departments, which were mandated to step in when parental care and supervision of children was inadequate.

The 1969 Children and Young Persons Act went further still in advocating a welfare approach to youth justice. The Act required local authorities to draw together their services for children, old people and those with mental health problems into single ‘generic’ social services departments, staffed by qualified social workers. Young people were to be handled by civil rather than criminal proceedings, as both penal and welfare based institutions were thought to be criminogenic and stigmatising rather than therapeutic or rehabilitative (Muncie and Goldson, 2006). Consultation between the police and social services was required before a decision was made concerning a young offender and there was greater use of supervision by social workers rather than probation officers (Wakefield and Hirschel, 1996). Young offenders could be made subject to care orders placing them in the care of local authorities. The minimum age of criminal responsibility was raised from 8 to 10 (though not to 14 as was originally envisaged).

Despite the intentions behind the welfarist reforms, the use of imprisonment for children continued to rise in the 1970s and early 1980s, whether through rising youth crime, increased discretion given to police, courts and other officials or other factors (Wakefield and Hirschel, 1996, Cavadino and Dignan, 1992). Welfarism was thought by some to pathologise individuals and tie them more closely to the judicial process at increasingly younger ages (Muncie and Goldson, 2006). Attempts to restrain the rising prison population were mainly pragmatic – inviting sentencers to use custody less and for shorter periods, while providing them with a great number of non-custodial penalties to use as alternatives (Cavadino and Dignan, 2006).

The pendulum began to swing away from ‘pure’ welfare and back towards punishment in the 1980s. The Conservative Party, elected in 1979, introduced a tougher regime – known as the ‘short sharp shock’ – into detention centres for young offenders (McLaughlin et al, 2001, Cavadino and Dignan, 2006). The 1982 Criminal Justice Act provided magistrates with additional requirements, such as

curfews which could be attached to community disposals, and changed the framework of custodial sentences (Wakefield and Hirschel, 1996). The Criminal Justice Act, 1988, created a generic sentence of “detention in a young offender institution” and the decision over where to place the offender (e.g. in a borstal or detention centre) was now made by the Home Office Prison Department rather than the court. However the desire to minimize the use of prison for children remained – whether out of concern for the children’s welfare, or simply to contain expenditure (Bateman, 2012). As such, police forces were encouraged to use police cautions to divert ‘less serious’ young offenders away from the criminal justice system (Cavadino and Dignan, 2006). Between 1981 and 1992, the recorded number of young offenders in England and Wales dropped quite dramatically (Muncie and Goldson, 2006).

The 1989 Children Act separated the ‘care jurisdiction’ from the ‘criminal jurisdiction’. It was the first piece of legislation to set out councils’ duty in regard to child protection. It endorsed the principle of using prosecution as a last resort and abolished being able to issue care orders in criminal proceedings. Civil care proceedings were transferred to the Family Proceedings Court. The 1991 Criminal Justice Act renamed the juvenile court the youth court and extended its jurisdictions to include 17 year olds. The Act provided new sentencing powers; individualized sentencing based on the ‘maturity’ of the offenders; placed additional emphasis on parental responsibility; renewed focus on ‘action plans’ to tackle offending, and brought in procedural changes (Wakefield and Hirschel, 1996).

3.2 Interventionism, rights and responsibilities at the turn of the millennium: The Blair era

The New Labour administration elected in 1997 responded to the considerable public anxieties and fears about crime with a philosophy of ‘getting tough’ on crime, emphasising the values of mutual obligation, self-discipline and individual responsibility (McLaughlin et al, 2001). The philosophy applied to youth crime as much as crime committed by adults. They toughened up several aspects of youth justice, curtailing multiple use of police cautions, and substantially reducing diversion from formal court proceedings. However, the Labour administration did rather more than toughen up the system. They substantially overhauled it, partly in response to an influential Audit Commission report ‘Misspent Youth’ that heavily criticised the youth justice system for being costly, inefficient and ineffective (Audit Commission, 1996). The report laid the foundations for the major restructure of the system set out by New Labour in the White Paper ‘No more excuses’ (Home Office, 1997), which led to the significant reforms in the Crime and Disorder Act of 1998 (CDA). The Act abolished the principle of *doli incapax* meaning that 10-13 year olds could be judged as culpable as an adult offender. The Act defined the aim of the YJS as the prevention of offending by children and young people, and it brought large scale reforms to the youth justice system, including the creation of the YJB and multi-agency youth offending teams (see section 2.3.2). Between 1995 and 2000, the number of 10 -17 year olds given a community sentence increased by 27% for males and 42% for females, and the number given a custodial sentence increased by 24% for males and 100% for females (Home Office, 2001).

Targeting anti-social behaviour

The CDA also introduced a raft of legislative measures to target anti-social behaviour, behaviour that “caused or was likely to cause harassment, alarm or distress to one or more persons not of the same household as himself”. These included Anti-Social Behaviour Orders (ASBOs) whereby a council, the

police, or a social landlord could ask the court to impose an ASBO which restricted a child's movements (for example, by banning them from certain public areas where they had carried out ASB). What might previously have been seen as indicators of welfare needs became re-framed as precursors to criminality (Muncie and Goldson, 2006). While the ASBO was a civil proceeding, breaching the conditions of an ASBO was a criminal offence. The Criminal Justice Act (2003) created the option of adding an Individual Support Order to an ASBO, which specified activities in which a young person must participate, attend specific places, or comply with educational arrangements which were believed to prevent further ASB. (However these were rarely used.) Youth Inclusion and Support Panels (YISPs) were introduced in 2004 to target the 'most at-risk 7 – 13 year olds' in England and Wales and engagement in intervention programmes (Home Office, 2004: 14).

Shortly after the CDA, Acceptable Behaviour Contracts (ABCs) were also included in government guidance as another tool for dealing with ASB. ABCs were a written agreement between a person (primarily young people), the local housing office or a registered social landlord and the local police in which the person agreed to not carry out identified anti-social behaviours. The contracts were initially piloted by a police and council housing department in Islington, London, in 1999 and the approach was then expanded to other boroughs. Although ABCs were not legally binding, if the agreed conditions were not met they could be used in further legal action (for example, in an application for an ASBO).

Parental responsibility

The CDA also punished the parents of children who misbehaved or had been neglected by bringing in court orders, "Parenting Orders", for children with ASBOs or convictions, were subject to a sex offender order or a child safety order, following a number of reports citing poor family relationships and lack of parental supervision as key factors in youth crime (for example, Graham & Bowling, 1995, Home Office 1997, Farrington, 1995). Parenting Orders required parents to attend counselling or guidance sessions on a weekly basis for three months. They could also include a requirement to ensure their child attended school. The Anti-Social Behaviour Act 2003 brought in "parenting contracts", a document between a local education authority (LEA) or a school governing body and a parent stating that the parent agrees to requirements intended to ensure a child attends school and/or improve their behaviour. The Act allowed the LEA and youth offending teams to apply to the court for a parenting order, if the parent refused to enter into a parenting contract or failed the terms of the contract. Parents could also be fined if their child frequently truanted from school. The ASB Act 2003 also gave the police powers to disperse groups of young people under 16 to their place of residence.

The risk assessment and management approach which came to dominate the youth justice system at the end of the 20th century led to the targeting of low level disorder and incivilities. The consequence of this was a dramatic increase in the numbers of children who ended up in the youth justice system. In 2005, the Prime Minister Tony Blair launched the Respect Agenda culminating in the Respect Action Plan at the beginning of 2006. It promised extra powers for community support officers to conduct truancy sweeps, extra requirements for 'problem families' to undertake compulsory parental training and the establishment of a national parenting academy (Respect Task Force, 2006). As shall be discussed below, the policies symbolised by the ASBO were substantially reviewed after the end of the Labour administration in 2010.

Restorative justice

Another key element of Labour's new approach to youth crime was an emphasis on restorative justice, defined early on in their administration as 'restoration', 'reintegration', and 'responsibility', apologising to victims and repairing harm, re-joining the law abiding community, and accepting responsibility for the consequences of their actions and his/her future behaviour (Home Office, 1997). This approach was the foundation of the Referral Order that was created in the Youth Justice and Criminal Evidence Act 1999, whereby a young person discussed their crime with a panel of community volunteers and the victim (where possible) and agreed the activities to be carried out during their Order. The use of restorative justice approaches has since been considered effective practice in youth justice to be used at any stage of the youth justice process, and its use has also expanded to schools and communities (for example, as part of a school disciplinary procedure or as part of an Acceptable Behaviour Contract)⁷.

3.3 Reversing the rise in convictions: 2007 - 2010

In 2007, youth justice was made a joint responsibility of the Ministry of Justice and the Department for Children, Schools and Families (DCSF), signalling yet another shift of emphasis and a commitment to a return to welfare approaches. Local authorities were required to report on indicators to reduce the number of children in custody.

It had become clear that there were unintended consequences of the restrictions on the number of police warnings that could be given to young offenders; it was also clear that various performance targets designed to increase numbers of offenders "brought to justice" were sweeping large numbers of minor offenders into the youth justice process. In response, the government introduced a target of reducing the number of "first time entrants" to the YJS. In other words, the aim was explicitly to reverse the emphasis on formal proceedings against young people, and once again to encourage diversion. The result was a rapid fall in numbers of children subject to formal proceedings. This was accompanied by a commitment to reduce the number of children sent to prison, and numbers began to fall sharply. The trend was probably accelerated in 2008, when the four Children's Commissioners for the UK countries submitted a joint report to the UN Committee of the Rights of the Child alleging a failure to use custody only as a last resort, in violation of article 37(b) of the United Nations Convention on the Rights of the Child, 'particularly in England and Wales' (UK Children's Commissioners, 2008: 33).

3.4 Post 2010: austerity and a rhetorical return to 'toughness'?

When the government changed in 2010 to a Conservative-Liberal Democrat coalition, the political priority was the recovery of the economy. Between 2009 and 2015, the YJB had its budget reduced by £287m (about 55%), largely helped by the reduction of the number of young people in custody (YJB, 2015). Research conducted by Unison (2014) found at least £60 million of funding was withdrawn from youth service provision between 2012 and 2014, involving more than 2000 job

⁷⁷ For further information, see www.restorativejustice.org.uk.

losses, 350 youth centres closures, and cuts in 41,000 youth service places. The extent of contraction varied, but in some local authorities youth provision was reduced considerably: there was a 56% reduction in resourcing in Warwickshire, 44% in Essex and 43% in Surrey.

The tone of political rhetoric reverted back to one of ‘toughness’, and riots in major cities in 2011 brought youth justice back into focus: 31% of 10-17 year olds convicted of offences arising out of the riots were sentenced to custody compared with just over 5% of comparable cases the year before (Ministry of Justice, 2011). The punitive rhetoric has not gone unchallenged, however. The House of Commons Justice Committee reported in 2010 that a punitive mentality in the UK was driven by a cluster of factors, including ‘a toxic cocktail of sensationalised or inaccurate reporting of difficult cases by the media; relatively punitive overall public opinion; a self-defeating over-politicisation of criminal justice policy since the 1980s and the responsiveness of all these factors of the sentencing framework and sentencers’ judgements.

In 2010, the Home Secretary, Theresa May, accused the previous Labour government of having created an “alphabet soup” of police power to deal with ASB (Strickland et al, 2013). The Home Office published the White Paper, “Putting victims first: more effective response to anti-social behaviour,” which proposed to consolidate existing numerous police powers to tackle ASB into fewer but broader powers (Home Office, 2012). Anti-social Behaviour, Crime and Policing Act 2014 came into force in March 2015. The civil injunction – the Injunction to Prevent Nuisance and Disorder (IPNA) – was one of six new powers which replaced 19 pre-existing ones, including Anti-social Behaviour Orders (ASBOs). The other new powers were: the criminal behaviour order, community protection notice⁸, public spaces protection order, closure power, and the dispersal power (Gay, 2015).

In November 2014, the government announced that it would be reviewing YOTS to better understand their performance and the variety of YOT models. While Deloitte’s ‘stocktake’ was positive about YOTs’ partnership work and their concern with young people’s wider needs, they observed there was a discrepancy between what YOTs do and the targets measured by the MoJ, making assessment of performance and value for money difficult (Deloitte, 2015). Nevertheless, it went on to note that ‘a reduction in funding is not expected to result in reduced performance’ (Deloitte, 2015: 7). Shortly after publication, the Secretary of State for Justice proposed the YJB should further reduce its expenditure in the current financial year by £12m (5%) by reducing its grants to YOTs (YJB, 2015). The proposed austerity cuts were met with concern by the Children’s Commissioner for England and the Standing Committee for Youth Justice, (Longfield, 2015, SCYJ, 2015).

3.5 Conclusion

Over the last fifty years, youth justice policy in England and Wales has oscillated between principles of punishment and welfare. Some of the changes have been at the level of rhetoric without being carried through into practice. Whilst the various reforms to the youth justice system have been presented publicly as being ‘tough on crime’, many of the changes have – especially more recently – reinstated principles of diversion, and have made real progress in institutionalising restorative and reparative practice. Prevention has remained a key principle. The establishment of YOTs, and

⁸ Can only be used on young people aged 16 and over.

especially their multi-disciplinary operation, is now widely regarded as a success, and the Youth Justice Board managed to survive proposals by the government to disband it.

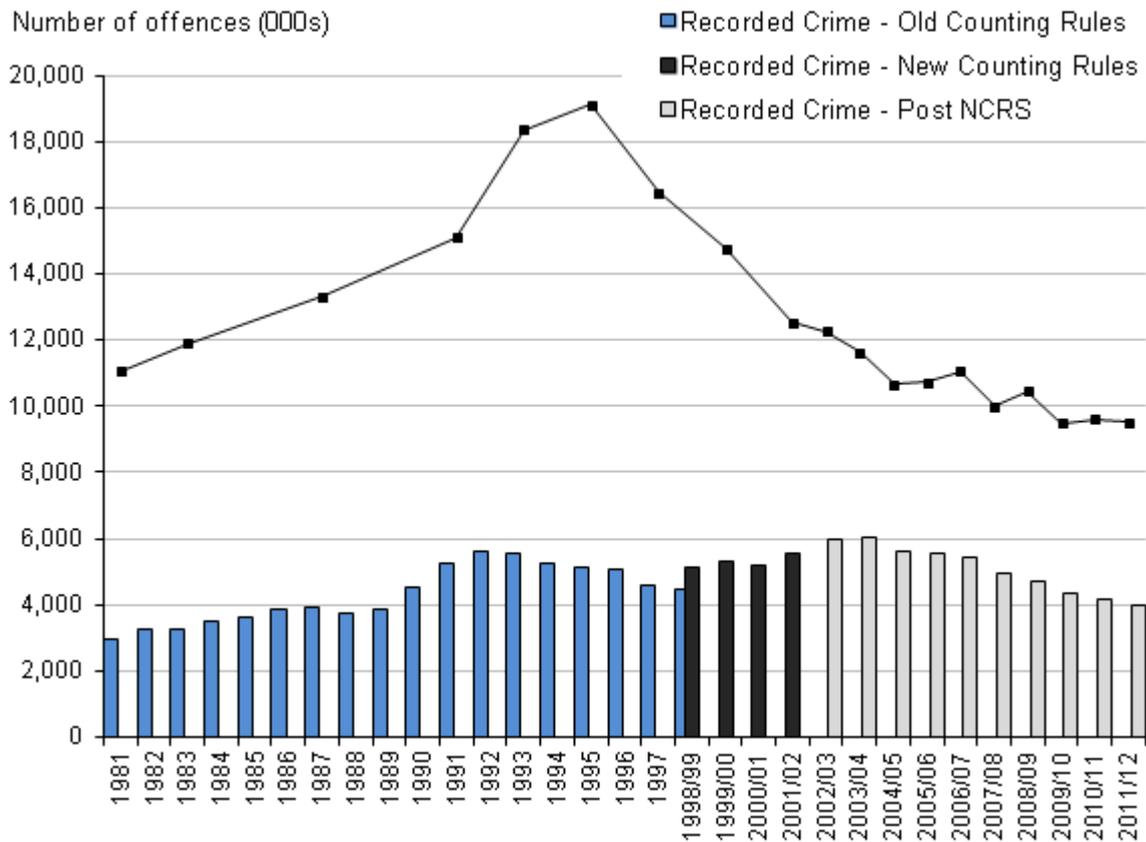
It is unclear what the impact will be of the new 'austerity', flowing from the government's strong attachment to policies to reduce the deficit by cutting public expenditure. On the one hand, diversion from formal court proceedings and reducing the population of children in prison sits comfortably with 'austerity'. On the other hand, the short-term costs of simple punitive disposals tend to be less than those that involve intensive rehabilitative work. If the number of children entering the youth justice system continues to fall – reflecting both diversion and falling crime rates, there may be an opportunity to resist pressures to adopt punitive policies and to consolidate the gains made over the last decade in embedding restorative, rehabilitative and preventative approaches.

4. Trends in sanctions for youth misbehaviour

In understanding trends in youth justice, it is important to take into account not only the impact of policy decisions but the underlying trends in offending. Following the start of the Blair administration in 1997, sanctions for youth misbehaviour grew steadily, reaching a peak in 2007 and then declining rapidly. The pattern of decline over the last eight years can be seen in school, community, police and court sanctions, though national data is not available for some civil sanctions such as Acceptable Behaviour Contracts or Parenting Contracts.

Since 1995 there has been a consistent and very marked fall in crimes against individuals and their property (ONS, 2015b, see figure 4). While some of the fall in victimisation in the Crime Survey for England and Wales (CSEW) can be attributed to new types of crime not currently in the survey – fraud and cyber crime – those types of crimes have not occurred at a level to eradicate the substantial falls described (ONS, 2015b). The reduction in burglary and vehicle-related thefts has been accredited to 'target hardening', the use of improved technology to make it more difficult to commit crime (ONS, 2015b). One can be confident that the volume of crime committed by children has fallen over this period, and fairly confident that the proportion of children engaging in criminal behaviour of any seriousness is also falling.

Figure 4: Trends in recorded crime and CSEW, 1981 to 2011/12, reproduced from ONS (2012), source - CSEW – ONS, Home Office



4.1 School and community sanctions

The number of adolescents who have been excluded from school as a result of misbehaviour was in steady decline between 2006/7 and 2012/13, and appears to have stabilised in 2013/14 (see Figures 5 and 6). After reaching a sharp peak in 2005, the number of ASBOs issued to young people declined steeply (see Figure 7).

Figure 5: Trends in the number of fixed-term exclusions from secondary schools in England

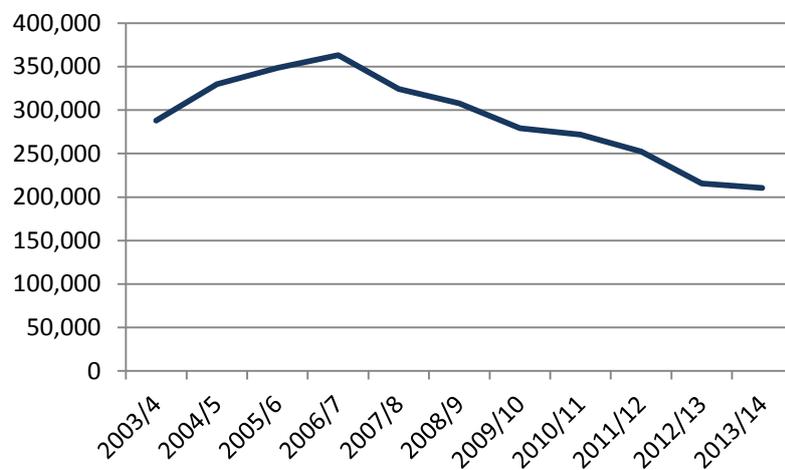


Figure 6: Trends in the number of permanent exclusions from secondary schools in England

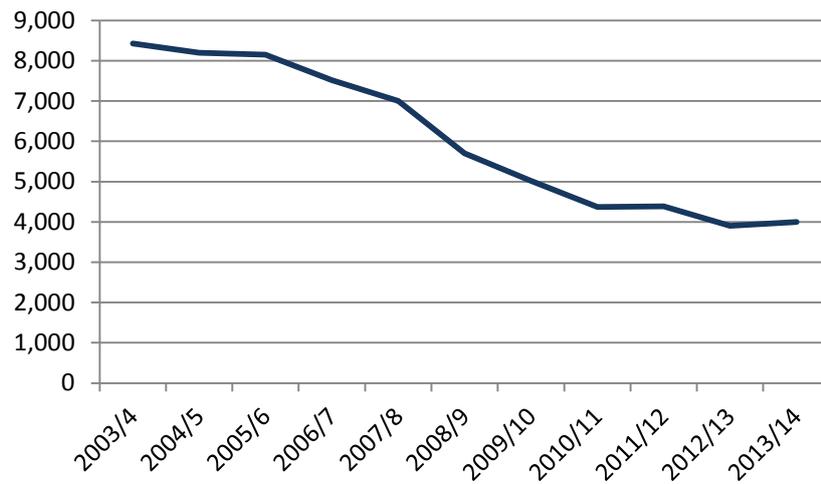
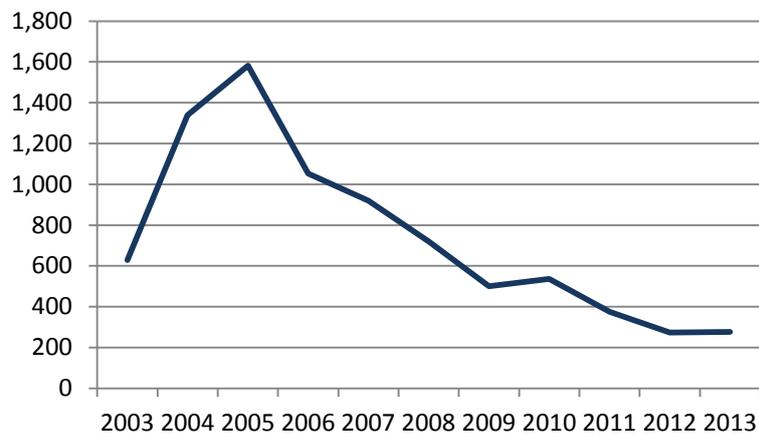


Figure 6: Anti-Social Behaviour Orders issued to 10 to 17 year olds England and Wales



4.2 Trends in youth offending

According to official reports, youth offending levels have been characterised by a steep downward trajectory since 2006/7. This reflects falling levels of crime, on the one hand, and a clear shift in policy, on the other hand, designed to minimize the criminalisation of children. Between 2003/4 and 2013/14, there was a 75% drop in the number of children entering the youth justice system for the first time. In 2003/4 the number of offences carried out by First Time Entrants (FTEs) was 88,403 compared to 22,393 in 2013/14 (see figure 7), and the fall in offence figures for adult offenders who were FTEs reflected similar trends (see figure 8, MoJ, 2014).

Figure 7: Number of offences committed by young people resulting in a caution or conviction

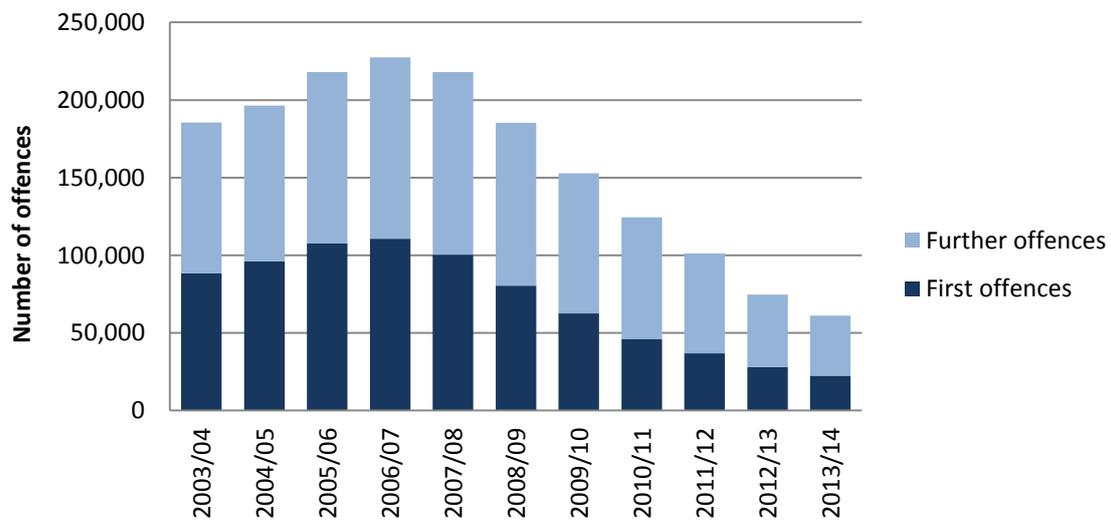
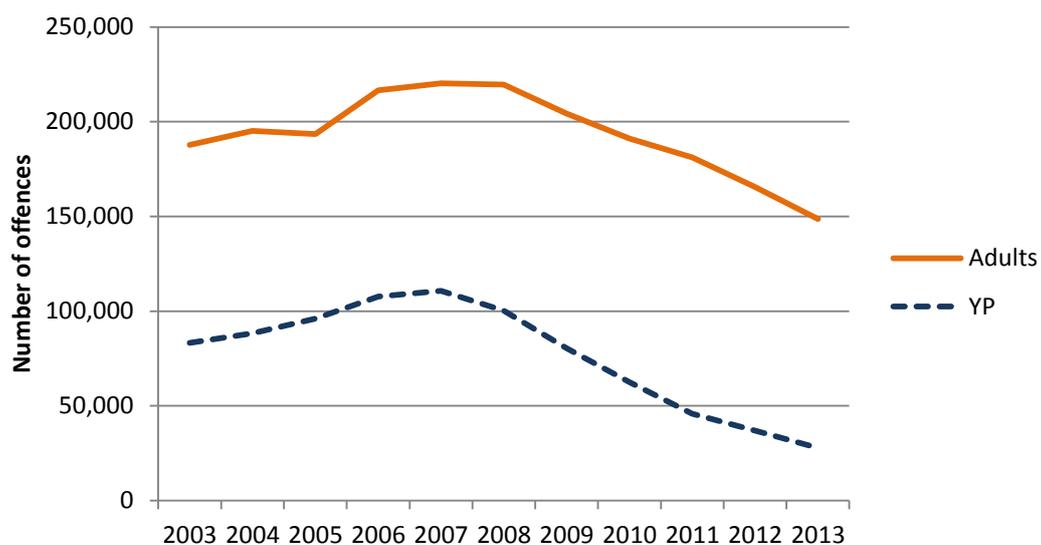
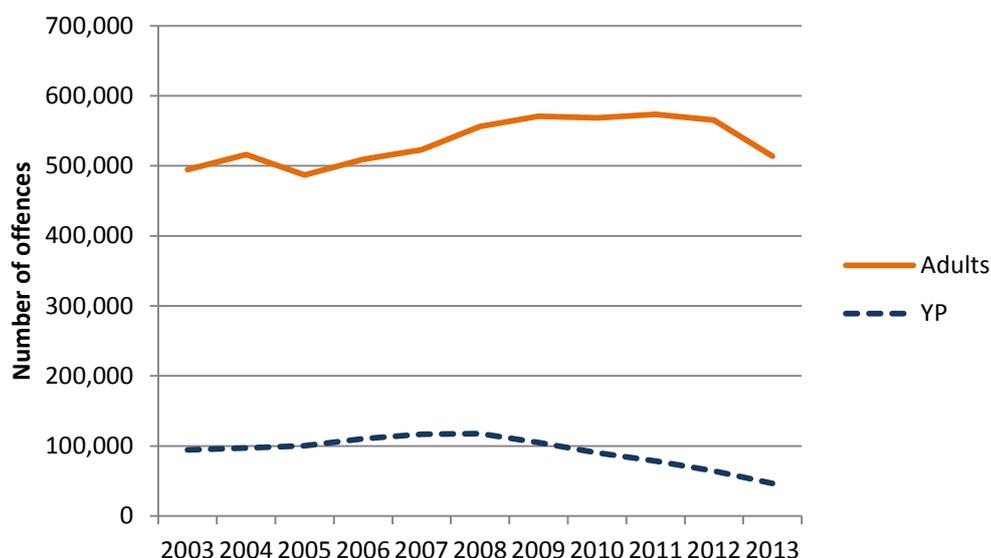


Figure 8: First offences committed by young people and adult offenders resulting in a reprimand, warning, caution or conviction, 12 months ending March 2003 to March 2013



However, there were differences in trends for offences which had been committed by young offenders and adults offenders with previous convictions: while the number of further offences fell for young people between 2008 and 2013, the number of further offences committed by adults grew and then plateaued of the same period, only falling in 2013 (see figure 9, MoJ, 2014).

Figure 9: Further offences committed by young people and adult offenders resulting in a reprimand, warning, caution or conviction, 12 months ending March 2003 to March 2013



The number of proven offences by young people fell by 68% between 2003/4 and 2013/4. In the last 4 years, the largest falls for young offenders have been for public order offences (60%) and motoring offences (54%). Young offenders make up a sizeable proportion of all offenders who are convicted of robbery and domestic burglary. In 2010, 4 out of 10 offenders (40%) who were convicted of robbery and around a quarter of offenders (24%) convicted of domestic burglary were under 18 (Aebi et al, 2014).

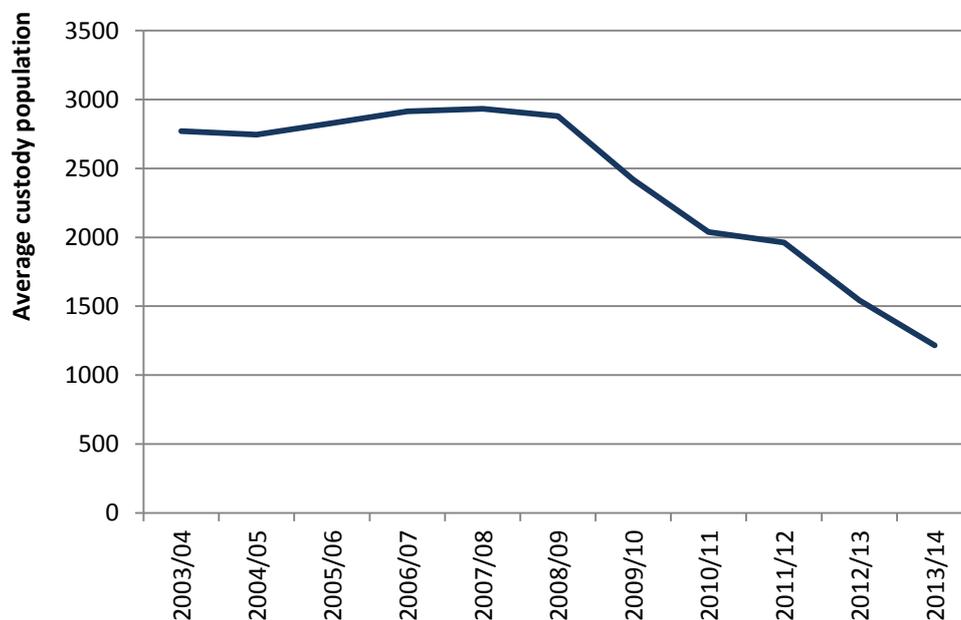
The number of young people sentenced at court fell by 64%, from 94,533 in 2003/4 to 33,902 in 2013/14. In 2013/14, 80% of young offenders were male and 19% female (1% not known). The proportion of males to females has grown since 2006/7, when males made up 73% of young offenders.

The average population of children in custody (under 18) fell by 56% from 2003/4 to 2013/14 (see Figure 10). In 2013/14, 95% of children in custody were male and 96% were over 14 years old. Most young people held in custody in 2013/14 were there for robbery (32%), violence against the person (25%), and burglary (16%). Young people held on remand accounted for 21% of the average custody population in 2013/14.

Nationally, children from Black ethnic groups remain overrepresented in the youth justice system – based on ONS population estimates for children aged 0-15 in 2009, 3% of children were of Black ethnicity in England and Wales in comparison to 6% of young offenders in 2009/10 (ONS, 2011). The degree to which they have been overrepresented has been fairly stable since 2006/7, rising slightly

to 8% in 2013/14 people of Black and Mixed ethnicity were considerably overrepresented in custody, making up 22% and 9% of the custody population respectively. Data have suggested that stop and search was also used disproportionately on black and minority ethnic young people (All Party Parliamentary Group for Children, 2014).

Figure 10: Custody population under 18s



Re-offending

The number of re-offenders⁹ has decreased in line with the overall decreases in the number of children in the youth justice system (mainly due to the drop in FTEs), a drop of 67% between 2007 and 2013. The average number of previous offences per offender has been rising since 2007, from 1.59 in 2007 to 2.57 in 2013. This indicates that while the numbers of young people within the youth justice system has dropped, those who remain in it are on average more frequent offenders.

Just over one in three offenders (36%) re-offended in 2013. The proportion of young offenders who re-offend has remained about the same over the last seven years, an average of 34%. In 2013, young people who had committed the following index offences¹⁰ were more likely to re-offend than those who had committed other offences: robbery (42%), miscellaneous crime against society¹¹ (41%), public order (40%) and theft (40%).

⁹ A proven re-offence is defined as any offence committed in a one year follow-up period that resulted in a court conviction, caution, reprimand or warning in the one year follow-up or a further six month waiting period. The Ministry of Justice refers to (proven) re-offending rates, rather than reconviction rates, because the latter would exclude cautions and similar warnings.

¹⁰ That is, the original offence, not the re-offence.

¹¹ Miscellaneous crimes against society are police-recorded non-victim based crimes, for example, perverting the course of justice, dangerous driving (not including death by dangerous driving), bail offences, health and safety offences, perjury and prostitution-related offences.

5. Summary

This paper aimed to provide an overview of the public services and policies which manage children who misbehave and offend in England. The snapshot of the most recent government statistics on school, police and court sanctions for youth misbehaviour highlighted the relative prevalence in their use. The most frequent official sanction given to children for misbehaviour is a fixed period of exclusion from school, affecting just over 650 in every 10,000 pupils in England. In contrast, 65 in every 10,000 youth are sentenced at court in England and Wales, and only 4 per 10,000 given a custodial sentence.

A network of services manage children's misbehaviour in England and work in collaboration. Schools and alternative education providers in England work with behaviour specialists and other in-school support staff to support young people who misbehave, and many schools work in partnership with local police officers. Social care services support primarily the most vulnerable children (for example, those experiencing abuse), and work in partnership with the police and other support organisations to manage challenging behaviour. Children and families with needs that do not meet the threshold for social care will often be referred to other family support services. Community anti-social behaviour teams set up by the local authority or housing providers may also become involved if children cause a nuisance in their local area. Children aged 10 to 17 who are arrested for their behaviour for the first time or for a minor offence are dealt with by the police, but those who go on to offend again or who have committed a serious first offence are dealt with by the magistrates' court. Children who commit a grave offence may be sentenced at Crown Court. Children who plead or are found guilty are then managed by a local, multi-disciplinary Youth Offending Team, which will include police, social care, and probation staff.

Over the last half a century, youth justice policy in England and Wales has moved back and forth between principles of punishment and welfare. Although crime has been decreasing since the mid-1990s according to the Crime Survey for England and Wales, a trend supported by police figures, sanctions for youth offending increased rapidly between 1995 and 2005. More recently, although the political tone has been one of 'toughness', the actual numbers of children in the youth justice system have fallen dramatically since 2007, and interestingly similar falls can be seen in school sanctions for misbehaviour. As a result, children who have stayed in the criminal system are on average more serious offenders, and black and ethnic minority children remain overrepresented. It is not yet clear what effects the austerity measures might have on offending rates and the quality of youth offending services.

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