



Youth Justice in Scotland: ten years on

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2017



- **Baselines**

- **Paradigm Change (Kilbrandon 1964)**

- , a failure in the normal experiences of upbringing – a **collective and shared responsibility**
- **criminal (youth) courts ... ‘inherently unsuited to meeting the needs of troubled young people as they seek ‘to combine the characteristics of a court of criminal law with a specialised agency for the treatment of juvenile offenders’ . (Kilbrandon 1964 para 71)**
- **Social Education (Pedagogy) vs Criminal Retributive Paradigm**
- **a means to individual improvement and promoting social cohesion**
- **A collectivist belief that educational success (in its widest sense) and failure is related to the social and economic circumstances faced by children and young people.**
- **Shared responsibility for children’s upbringing**



- **UN Convention on the Rights of the Child**

- **Beijing Rules, 1985**

- well being of the young person
- emotional, mental and intellectual maturity
- **socio-educational** responses
- **extra judicial** approaches
- avoidance of deprivation of liberty (LAST RESORT)
 - right to representation

Riyadh Guidelines, 1990

- early intervention - shared responsibility -multi disciplinary responses

- **Havana Rules, 1990**

- role of prosecutors and diversion

Council of Europe Rules for Juvenile Offenders Subject to Sanctions and Measures adopted on 5th Nov 2008 CM/Rec (2008)11E

- *Council of Europe Guidelines on Child-Friendly Justice* Strasbourg [CJ-S-CH (2010) 3 E] 2010

Limited impact until 2007



- **UN Convention on the Rights of the Child**
- **UN Committee's Observations 1995, 2002, 2007, 2016**

- **1995** UK 'uncooperative and arrogant'
- **2002** UK 'below what should be expected from a 'great country''
- **2007 - similar findings and conclusions – a lack of a children's rights approach (UNC 2007/8)**
- **2016 – concern over growing inequalities;**
- **reduced funding for child rights;**
- **best interests of the child 'not reflected' in policy/practice;**
- **voice of the child;**
- **concern over age (16) (children in armed forces);**
- **age of criminal responsibility (Scotland and Turks and Caicos);**
- **'children' in adult courts;**
- **detention without limit of time' for 'children';**
- **numbers of children in custody and secure (LAST RESORT?);**
- **criminal records;**
- **concern over children of incarcerated parents**



Outcomes by 2007

age of criminal responsibility unacceptably low- age 8(12-18?); MAPPA dealing with ‘children’ – children registered as sex offenders

Highest number of under 18s in custody for 10 years - 50-75% with a public care background

Numbers of ‘persistent’ offenders increased by 25%

Children’s Hearings research – young people who offend are among those with greatest difficulties; many graduate to the criminal justice system and custody

Youth Courts research – netwidening to adult systems

8000 adult convictions for under 18s per year

ESYT – young people faring badly

Orders of Life Long Restriction for children

‘not only do some of the (UN) Committee’s Concluding Observations of 2002 still lack any effective implementation.. some things have ..got worse’ (UK Children’s Commissioners 2008:4)



2007 - A (new) Cultural Project?

**prevention,
early intervention
diversion
effective intervention
participation**

(UNCRC 1989)

minimum age of prosecution raised to 12

Children in the adult criminal system

**McLeish report (2008) – youth hearings for 16s and
17s (accepted but still waiting)**

Whole Systems Approach



UNCRC applies to ALL young people (SG 2008)
A return to upbringing and wellbeing?

Getting it Right (GIRFEC)
Single integrated plan, wellbeing/ upbringing
indicators for all children under 18

SHANARRI
Safe, Healthy, Achieving, Nurtured, Active
Respected, Responsible, Included



UNCRC applies to ALL young people (SG 2008)

National Youth Justice Advisory Group (NYJAG)

National Practice Development (Champion) Groups

-Early and Effective intervention

-Serious violent and sexual offending

-Girls and Young women

Youth Justice Improvement Group

Children's Hearings Scotland

Decriminalisation and recorded offences?

Minimum age of prosecution – to be raised to 12?



FRAME Standards for under 18s

Framework for Risk Assessment Management and Evaluation

- Common Language
- Risk and NEED
- Information sharing
- Appropriate information
- to decision makers
- Links to adult justice
- MAPPA & GIRFEC

1

Risk Assessment

2

Planning and Responding to Change

3

Risk Management Measures

4

Partnership Working

5

Quality Assurance



- **Getting it Right**

- **Whole Systems Solutions**

- **linking youth justice strategies more closely with other strategies supporting and protecting young people**
- **victim perspective**
- **making stronger connections between youth justice and education**
- **developing the role of youth work**
- **reviewing access to mental health services**
- **enhancing the role of sport, the arts and cultural opportunities in building young people's self-esteem**



- **Outcomes by 2017?**

C&YP (Scot) Act 2014

Youth Justice Improvement Board?

Youth Justice Implementation Group?

Advancing Whole System Group?

Improving Life Chances Group ?

Developing Capacity and Improvement Group?

Community Justice Scotland – children and youth in criminal justice?

CJ(Scot) Act 2016 Community Planning



- **Outcomes by 2017?**

- 70% reduction in the number of under eighteens in custody,
 - 83% reduction in children referred to the Children's Hearings System on offence grounds,
 - 74% reduction in young people appearing in court (Scottish Government, 2015).
 - **Adult convictions for children - under 18s?**
 - **Average monthly custody rate of 50-64 yp**
 - **Average monthly secure rate between 77-86 yp**



• Outcomes by 2017?

- police disposals - restorative justice warnings have been in decline from 2,479 people in 2008-09 to 216 people in 2014-15.
- by contrast the number of young people referred for an EEI increased steadily since their introduction in 2008-09 rising to 650 people by 2011-12. 2014-15 to 2,533.



- **International Standards**
 - **A Rights Approach**

- Well-being as a paramount consideration;
 - An age of criminal responsibility based on maturity;
 - Socio-educational interventions rather than punitive ones;
 - Extra-judicial solutions;
 - Deprivation of liberty only as a last resort; and
 - Safeguards for the use of alternatives to custody.
- (UNCRC 1989)



- **International Standards**

- - **desistence and social integration (long term to adulthood +25),**
 - **avoiding adult criminal proceedings,** irrespective of the gravity of their crime;
 - **records** (with some exceptions for serious crimes) should not be disclosed on reaching the age of majority
 - **Youth access (under 24)**
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- European Guidelines on Child-Friendly Justice [CJ-S-CH (2010) 3 E]
 - European Rules on Juvenile Offenders subject to Sanctions and Measures (CM/Rec 2008 11E)



- **Practice Challenges**

- **16/17s in adult proceedings – in particular girls and young women**
- **Secure accommodation and custody as ‘last resort’**
- **Youth custody for breach of bail**
- **Meaningful Alternatives to Secure Care/ Custody**
- **Serious and Organised Crime**
- **Mental health**
- **Transitions to community living (Finance, Accommodation (place of safety?); wrap around**
- **Children’s Rights for under 18s in detention?**
- **Youth - Diversion for under 24s?**



- **Challenges**

UN Committee's Observations 2016

concern over growing inequalities; poverty and disadvantage; lack of family focus

child rights;

best interests of the child 'not reflected' in policy;

voice of the child;

concern over age (17yr olds in armed forces);

age of criminal responsibility;

children in adult courts;

numbers of children in custody;

criminal records on children;

detention without limit of time

concern over children of incarcerated parents



Time for Change

Changing Lives The Scottish Executive, 2006

Christie Report, 2011

Renewing Scotland's Public Services

The Scottish Government, 2011

Munro Review of Child Protection
(2011)



Public services .. facing their most serious challenges since the inception of the welfare state.

demand ...set to increase dramatically ...but also because of...failure ...to tackle the causes of disadvantage and vulnerability and its consequences

**achieve more with less
radical, new, collaborative culture
(Christie 2011)**



Time for Change

**organisational and management changes to support
best practitioner judgements**

Develop expertise to work effectively and directly

**maximising worker's ability to stay child-centred para 3
to work directly with children, young people and
families para 5**

**aim at prevention or long term maintenance of
positive change through collaboration para5**



- **A return to Social Education (Pedagogy) as a paradigm for practice?**
 - **education concerned with social development and collective responsibility**
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 - **Upbringing and wellbeing (SHANARRI)**
 - **individual improvement and social cohesion**
 - **Transformational change**



- **Kilbrandon Paradigm Shift? (Bruce 1975)**

Social Education – a paradigm for practice?

- **a means to individual improvement and promoting social cohesion**
- **A collectivist belief that educational success and failure is related to the social and economic circumstances faced by children and young people.**
- **Children first – prevention and early intervention**
- **Partnership with parents and families**
- **Shared responsibility for children's upbringing**
- **Direct clash with dominant criminal justice paradigm**



Social Education

Head – Heart – Hands

Professional, personal, private

- Knowledge of theory, law, policy
- Analytical skills
- Professionalism
- Reflection



- Practical skills
- Shared activities
- Interests
- Common Third

- Empathy
- Affection
- Self Awareness
- Emotional Intelligence





Towards Social Integration

Person centred and co productive approach

a ‘good life’

sense of agency and control

positive self identity

modelled through relationships

hope and trust in action

relationship circles

wrap around resettlement



• **Social Pedagogy/Education- a paradigm for practice?**

- **Whole child**
 - **Practitioner in relationship with child as person**
 - **Head, heart hand**
 - **Common third - shared life space**
 - **Children rights to upbringing (Haltung)**
 - **Victim perspective**
 - **Listening and communicating**
 - **shared, collective, collaborative responsibility**
 - **interpersonal relations**
 - **pro-social modelling**
 - **self/collective efficacy**
 - **social circumstances & structural injustice in a cultural context**
- (Stephens 2013)



What Works(?)!	Socio-educative and relationship based practice
Intervention required to protect the individual/ public	Help to overcome structural barriers and intervention to acquire and sustain personal and social “capital”, build resilience and a positive personal identity to support change, where appropriate, with the support of family and community
Professional assessment of risk and need governed by structured assessment instruments	Explicit dialogue and negotiation through a collaborative systemic assessment of social and developmental needs, risks, strengths, and resources, assisted and directed by the formulation of a structured professional assessment and explicit corporate or community planning to identify and direct opportunities for positive change
Compulsory / voluntary engagement and case management processes as required; elements of legal orders imposed irrespective of consent	Collaboratively defined tasks through voluntary, or as a last resort, compulsory engagement, which tackle risks, needs, and obstacles to change by using structured approaches, relational, case/risk management, and child protection processes, as required to develop the young person’s human and social capital, positive personal identity, and social integration; maintained change through community resources.

Source: adapted from Whyte (2009, p.18)



- **a new type of professional needed?**
...who can help ..overcome the reluctance of many professionals to share power with users and their communities and who can act internally in organisations (and partnerships) to broker new roles for co-production between traditional service professionals, service managers, and the political decision makers who shape the strategic direction of the service system. (Loeffler, 2012)





- **Social Work as Culture Carriers on UNCRC**
- **International Federation of Social Workers (IFSW, 2012)– draw on human development, social theories, and social systems to facilitate individual, organisation, social and cultural change**
- **International Association of Schools of Social Work (IASSW) – Principles of social justice, human rights, collective responsibility and respect for diversities are central to social work.**
- **‘culture carriers’ challenge to implement UNCRC**
- **Definition of ‘Child’ = under 18 years**
- **Definition of ‘Youth’ -= under 24**