



# THINKING ABOUT JUSTICE

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# INTRODUCTION

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*“When faced with the justice system, children are thrown into an intimidating adult world which they cannot understand. Adapting justice to their needs is therefore necessary.”*

(Council of Europe, 2010)

Current conceptualisations and subsequent implementation of ‘justice’ is built on a myriad of understandings - the central uniting factor of these is that they are almost exclusively developed and designed through the lens and understanding of adults (Hammond, 2019). There is very little cognisance of children’s potentially differing interpretations and understanding of justice. That is not to say that children and young people are not active in shaping the current justice system, however when this takes place it tends to focus on aspects of the system, or processes rather than conceptualisations of justice. Understanding children’s conceptualisation of justice is imperative as they appear to experience justice differently to adults. This research project would be an important component of part of a wider programme of change about ensuring that children and young people’s contact with the Scottish Justice System is rights-respecting. It is essential then that any vision of justice prioritises child-friendly justice for all children and young people who come into contact with the law. The Scottish Government has committed to incorporation of the United Nations Convention on the Rights of the Child (UNCRC) into domestic law, which provides an added imperative to ensuring justice for all. This research will support UNCRC incorporation by listening to and providing opportunities for children to participate in shaping justice policy and practice (‘children’ is used here to refer to all those under 18 years old).

This report outlines the findings of participatory research project ‘Aspirations for Justice’, where using creative methods, a range of children were encouraged to think about justice. This report will explore the findings in relation to children’s understanding, experiences of, and aspirations for justice in Scotland, which is important for our development of child-friendly justice systems. This research was commissioned and funded by Justice Analytical Services of the Scottish Government, under their call for research on ‘Understanding and taking action to improve people’s experience of justice’ (2020).

# METHODOLOGY

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This research project has taken place throughout the COVID-19 pandemic, and this has had implications for the methodology. The initial proposal was designed pre-COVID-19 and was adapted to online delivery to comply with ongoing social restrictions, although the overall aim, structure and content did not change. However, these social restrictions eased during the period of fieldwork and following the wishes of the children approached to take part, participation for the final groups took place face-to-face, following relevant guidance.

## **ETHICS**

An invitation to take part in the workshops was offered to groups of children via relevant gatekeepers and participants elected to take part. Parental consent was gained from the parents of the children aged 8-10, and consent obtained from all children who took part. University of Strathclyde Ethics Committee provided ethical approval for the study, and all face-to-face research was subject to additional risk assessment approval from the University subject to COVID-19 guidelines.

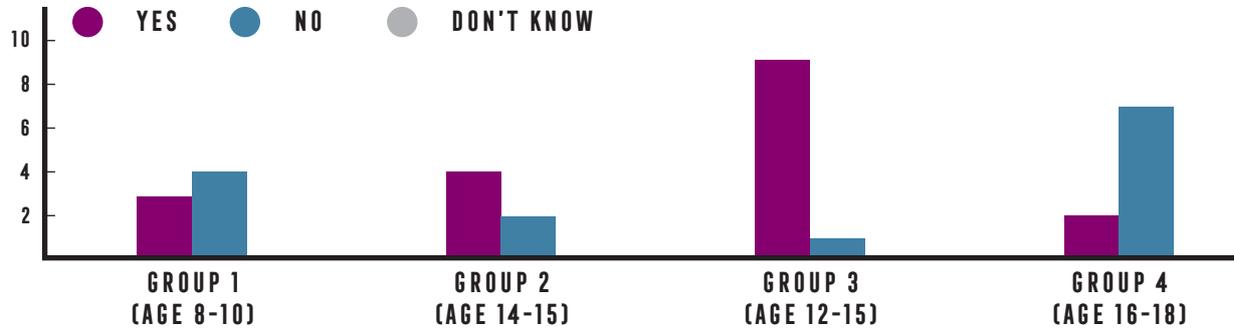
## **PARTICIPANTS**

A total of 32 children took part in online and face-to-face workshops. Four different groups of children took part. The first were aged 8-10 years old and accessed via a P5 class in a primary school (n=7). The school is in an urban area in the central belt which scores in the 10% most deprived categories in the SIMD. The second group were 14-15 year olds drawn from social subjects classes in a secondary school (n=6) and the group was all female. The school is situated in a rural area in the East Coast of Scotland. The third was a group of boys aged 12-15, who attend school but have been excluded from attending class (n=10). The final group were children aged 16-18 who are part of a youth community group (n=9). Group 3 and 4 lived in the same small area in a major city, which again scored high on the SIMD, with all indicators in the most 10% deprived categories. Seventeen of the children identified as male, the remaining 15 were female. The report uses the term 'children' to refer to participants who are under 18; however, it acknowledges that some of the participants would consider themselves young people or young adults.

The participants completed a short questionnaire to indicate their 'justice' experience including contact with the police; involvement in CHS; affected by family imprisonment; or being a victim of crime.

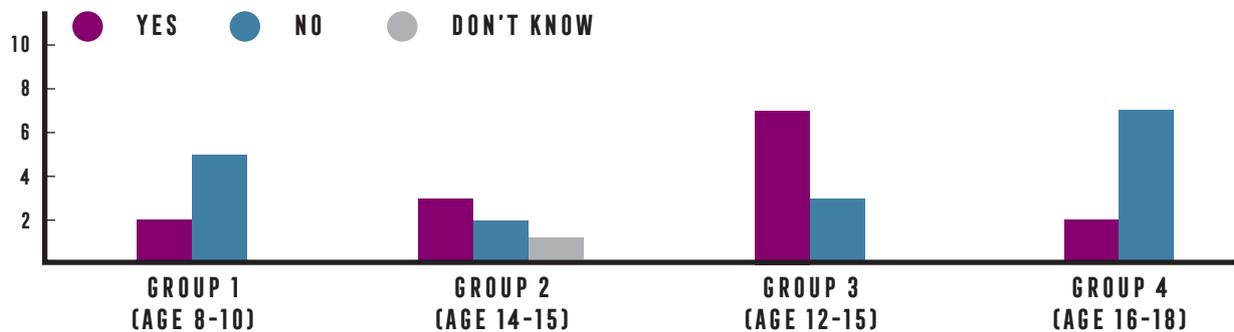
## CONTACT WITH POLICE:

This could have been in any capacity, with some children noting that this was in school, or part of class activity. Group 3, the group of school-excluded boys had the highest proportion of contact with the police. In their workshops, they were the only group to explore the merits of a campus cop and this interaction may account for this.



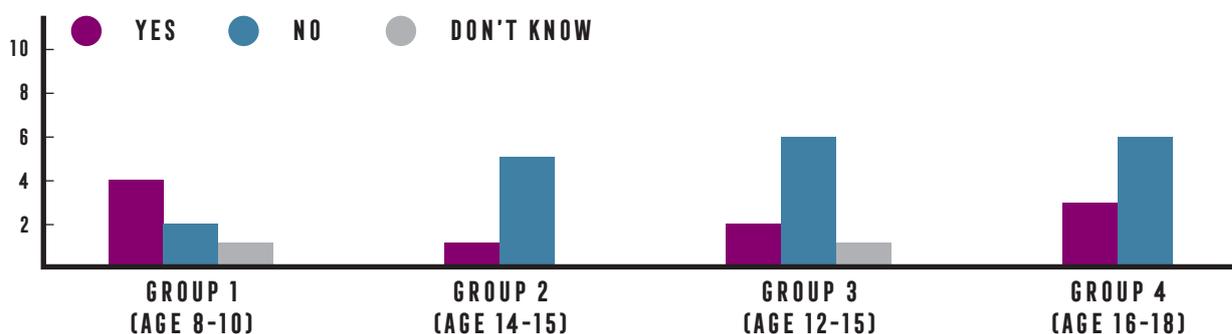
## BEING A VICTIM OF CRIME:

This was a self-identified category, not determined by official recognition by a justice authority. Group 3 again had the highest number of self-identified victims. Children and young people with increased contact with the youth justice system are also more likely to be victims in their own right (McAra and McVie, 2011).



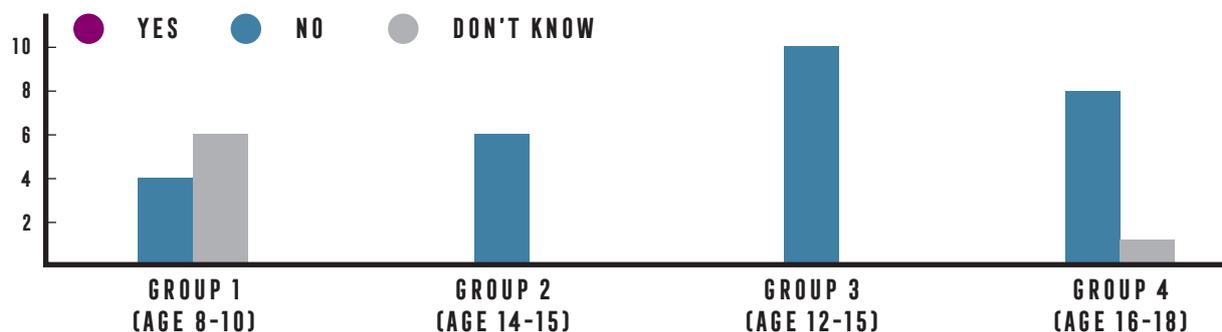
## EXPERIENCE OF IMPRISONMENT OF SOMEONE YOU CARE ABOUT:

This question asks more broadly than family imprisonment to recognise the diverse understanding of family, and it could include both a past or present experience. Across all groups, children gave insights in the discussion which could have come from the personal experience of having a loved one in prison, and group 1 have a particularly high rate of experience in this category.



## EXPERIENCE OF ATTENDING A CHILDREN'S PANEL:

This could include attendance because of being the subject of a hearing, in relation to any of the grounds for referral, or in another capacity. It is perhaps surprising that no children self-disclosed experience of the Children's Hearing System.



## METHOD

Online workshops were structured into three main sections and included an additional introductory and celebratory session. The three thematic sections included age-appropriate participatory activities based on the children's understanding of justice (using vignettes), experiences of justice (using storyboards) and aspirations for justice (using creative activities). Other than the broad themes of understanding, experience and aspiration for justice, and related sub questions, the nature and topic of discussion was very much youth-led. This open approach allowed children to raise the issues which were important to them, rather than being asked to comment on or express a view on adult defined notion of justice.

Online participation, with groups 1 and 2, was positive considering that sessions took place at a point in the pandemic when online research methods for research were still relatively new. Sound quality varied depending on the equipment used and the setup of the room and due to this, large sections of the conversation were inaudible. In addition, asking participants to repeat what they had said could stilt free flowing discussion. Moreover, common issues which can arise when conducting focus groups, such as being able to identify and encourage quieter members of the group; and create and manage a safe, open and respectful environment for participants, were harder for the researcher to control online.

Face-to-face workshops took place with groups 3 & 4 over longer sessions. While the introductory session was considered less important in the face-to-face groups as rapport could be built more quickly than online, group 3 were reluctant to engage. This reluctance could be attributed to a potential lack of trust with the researcher; the influence of an all-male group minimising discussion; or activities not being set at an appropriate stage.

Gatekeepers remained for all face-to-face sessions which helped build rapport with the young people and supported the discussion. Online workshops appear to have been more focused as with face-to-face, young people were easily distracted and side conversations often disrupted the flow of conversation or the audio recording.

## **GRAPHIC FACILITATION**

The workshop sessions included live graphic facilitation. An artist would join the workshops and create images based on their understanding of significant aspects of the discussion. The visual learning supported the children and young people to keep focused on the topics being discussed, helped them to grasp the largely conceptual topics, and supported them to recall quickly what had been covered in previous sessions. The younger children in particular enjoyed seeing their ideas come to life through the graphics.

## **ANALYSIS**

Workshops were video recorded (online) and audio recorded (face-to-face) and then transcribed. A thematic analysis (Braun and Clarke, 2006) allowed codes to be grouped into themes, explored under the three aims of the research.

# UNDERSTANDING JUSTICE

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Adults have developed dominant philosophies of justice and punishment, and children's understanding of them are in the main influenced by how they are presented by adults or through experiences of adult-designed systems and processes. It is therefore necessary to allow children and young people space to explore these conceptual ideas, free of judgement or limitations.

The first substantive session of the series of workshops aimed to explore children's understanding of the concept of justice by asking 'what is justice?' An initial activity asked participants to note down what they thought of when hearing the word 'justice', prompting the following discussion. Finally, a set of age appropriate vignettes were given and explored. This allowed deeper discussion about the motivation for their decisions, what justice would look like for different actors in the scenario, and explore how changing small elements of the scenario could affect or not, the form of justice.

Formal actors of justice were immediately identified such as 'judges, courts, police'. With the exception of group 3, despite discussing justice participants spoke surprisingly little about the police. This could be considered concerning as they are often noted as being gatekeepers to the justice system. When prompted, children considered the police as enforcers of the law, and to have a major role in surveillance of individuals, communities and groups.

Apparatus of justice such as prison was noted, but extended also to community justice although less frequently for example fines, tags, probation and community payback. When prompted to think beyond criminal justice systems, justice was considered within schools by teachers, or within families.

*"I guess schools have a role in justice, like not criminal, but in terms of fairness in the classroom and that..."*

**Child, Group 2**

*"Your upbringing can impact, like families and that. Because if you do something when you're younger and your parents let you away with it, you're less likely to understand justice..."*

**Child, Group 2**



While children did reflect on justice within the wider 'community', surprisingly they did not raise issues of justice between peers or friend groups - in the form of bullying or playground disputes - which is often most associated with children. This could indicate that notions of justice for children are very much 'adult led' where there is a clear delineation of power and authority. For most of the children, 'Justice' is something sanctioned by adults and professionals, rather than more informal, soft notions of justice. This also potentially removes justice from the spaces and places which children and young people more frequently occupy or have access to. However, groups 3 & 4, who had a deep mistrust of formal justice, did allude to an alternative community based justice system, discussed later.

More conceptual notions of justice also appeared in their word choices. For example, younger children spoke about right and wrong, which developed conceptually into innocent and guilty for the older children. Older children were much more attuned to justice not being a universal truth experienced equally by all, including words such as 'Injustice, Equality, Equal Rights, Prejudice/Bias, Entitlement and Equality' which were seen to affect individuals' access to justice and enjoyment of rights - particularly when it came to formal justice representatives, such as the police.

Child: *“Enforcers, in some cases, not as much as here cos I’ve not had much to do with [police] but I know they can be seen as corrupt. Like they enforce their own set of rules.”*

Child: *“Yeah [police] make up the rules as they go”*

Child: *“They are the law”*

Child: *“They follow the law, but they can tweak it to benefit them or what they see as the law”*

**Group 4**

Children and young people displayed maturity, reflexivity and confidence as they considered the emotional and physiological impact of justice. Group 4 gave answers about 'feelings' of justice - words included 'traumatised, relief and loss'.

Group 1 and 2 also explored the pains of imprisonment, including standards of living and missing loved ones, and the advantages of community alternatives, which they described as 'house arrest'.

FG: *“Why would it be good keeping them in their house and not sending them to prison...what is the difference between those two?”*

Child: *“Their house has heating,TVs and prison has one of the dirtiest toilets I’ve ever seen.”*

Child: *“They could order food and just relax...and if they have a special need, they can get their medicine...”*

Child: *“I’d miss my Mum and Dad [if sent to prison]”*

Child: *“If you were on house arrest, you could order Starbucks and drink coffee instead of drinking water...in the prison food are like sloppy joes...order dominoes.....“*

**Group 1**

*“Mentally it would feel like the loss of someone, if they are going away to jail for a long time, and then you get used to them not being there, and then when they do come back out it will feel really different, if you’ve got like young children like they might not know who they are”*

**Child, Group 2**

## UNDERSTANDING CONSEQUENCES & CIRCUMSTANCES

As the participant groups got older in age their understanding of the complexity of justice became more nuanced. A standard response from the oldest group of participants to the range of prompts became 'it depends'.

Despite this, children all believed that there had to be some form of 'consequence' to someone's actions. The consequence was informed most often by the severity of the wrongdoing, but equally, the wider circumstances should play a varying degree in justice.

Child: *"It depends on the situation... Each situation can have a million different possibilities depending on the situation"*

**Group 4**

Child: *"someone facing the consequences of their actions. Their punishment is decided depending on the severity of their actions as well as their circumstances..."*

**Group 2**

Children identified a range of circumstances, which had the potential to influence wrongdoing, by impairing our understanding of right and wrong, or our ability to control our actions. Overall, children accepted these should be considered in the apportioning of justice. However, they reasoned that realistically the law is too complex to adapt to individual circumstances - and that in some cases of wrongdoing the circumstances were outweighed by the action itself.

Child: *"in a perfect world everyone would be punished according to their circumstances but lets say the level of law or justice isn't the same. Like your not going to have police officers discussing this, they'll see two drunk drivers who have ten pints, they've broken the law they are going to arrest them, they don't take the rest into account."*

**Group 4**

Circumstances which could limit free choice in terms of wrongdoing included upbringing or mental health.

Child: *“[inaudible] someone’s background and upbringing really does impact the way that they will like react to certain situations and how that will influence life choices they will make.”*

Child: *“yeah cos like, how did we learn to speak? Because our parents did it. So if they are hitting us, we’re going to think its ok to hit people.”*

**Group 2**

Child: *“mental health effects loads of stuff, like your self-esteem and self-control- you are less control of a situation”*

**Group 4**

Alcohol however, was seen as a circumstance which would impact on your ability to think through consequences and limit rational choice but was less of a mitigation for wrongdoing because it was seen as a choice in itself.

Child: *“They were drunk, sometimes you make stupid decisions when you are drunk.”*

F: *“so should that be taken into account then?”*

Child: *“Na, it’s the law, that’s not how the law works. You canny say I was drunk so I shouldn’t have stabbed him“*

**Group 4**

Child: *“you’re not thinking about the consequences when you are drunk”*

**Group 3**

The children also considered circumstances where moral and legal circumstances were at odds with each other. In acknowledging that issues only become legally wrong when they are defined by the justice system, children started to explore wider considerations of access to justice and morality in wrongdoing.

Child: *“Stealing bread to save your family is fine because there’s that immediate need, and if the bread seller then loses his family because he can’t afford to feed them because of the bread stealing, that’s still ok because the first guy wasn’t aware of the impact on the bread seller and was meeting an immediate need.”*

Child: *“You are saving your family. Say a guy steals a telly cos he’s poor and he’s gonna sell it to help his family up a wee bit. Morally right. Legally wrong.”*

**Group 4**

Group 1 shared a story where they had all experienced vandalism to school property (graphic below). As shown in the group’s story board they explored the role of evidence in apprehending the culprit; the impact of the crime on various people and in various ways; and finally and most significantly, we considered why the vandals may have carried out this act.

FG: *“and why do you think the people set it on fire?”*

Child: *“just to be bad. Just to be bad. Or something was happening with them [inaudible] and they just couldn’t stop themselves...”*

Child: *“cos they were sad, and upset and they wanted to do something and that was the only thing they could think of”*

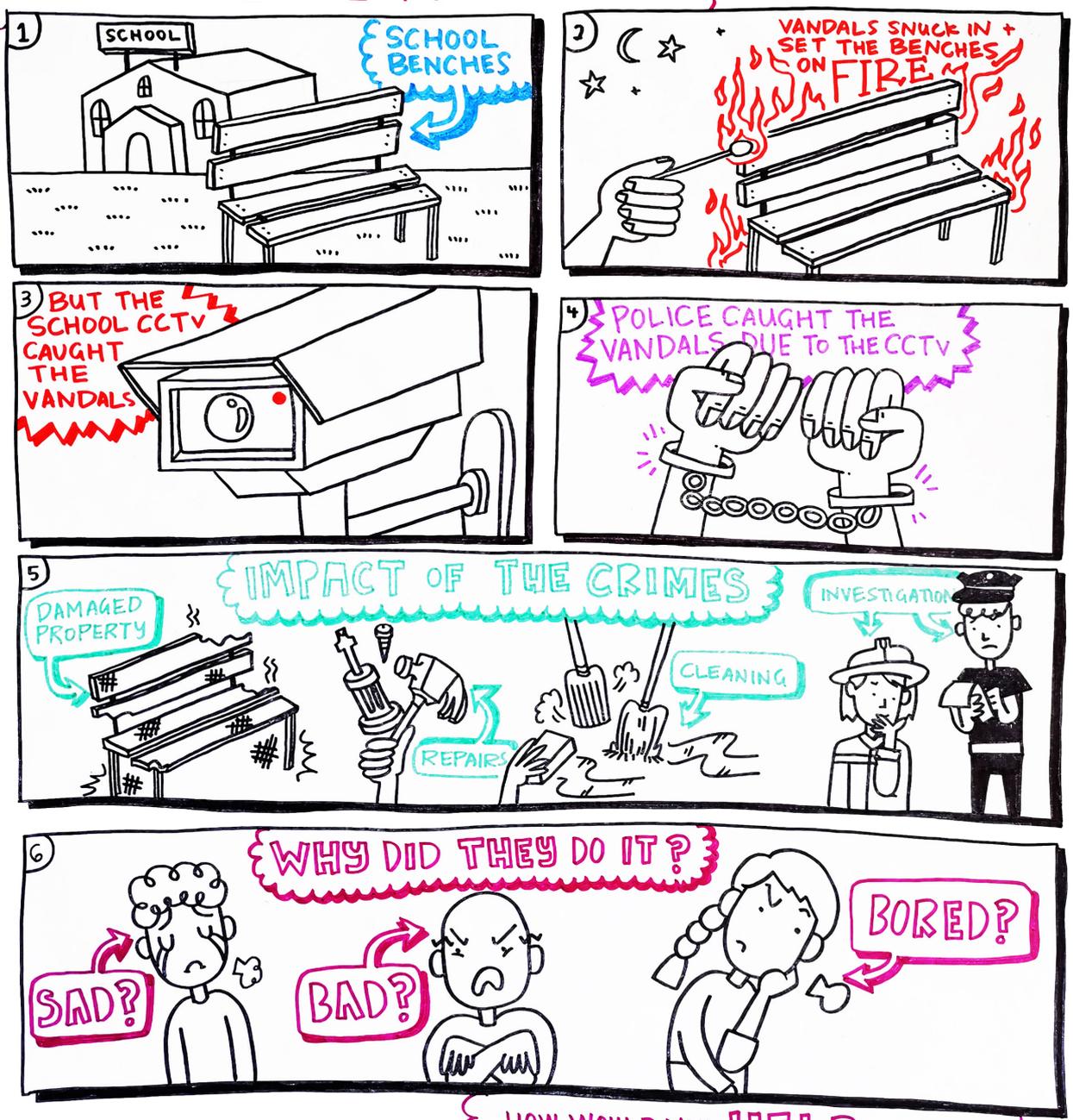
Child: *“yeah because something might have happened in their life...inaudible”*

Child: *“maybe its just something to do and they didn’t mean it to get that bad. I think they might have had a lighter and then it came into a big fire cos I saw that in a movie...”*

Child: *“they might have been angry and bored at the same time.”*

**Group 4**

EXAMPLE OF AN INCIDENT IN SCHOOL!!



HOW WOULD YOU HELP THEM??

EXPERIENCE OF JUSTICE | GRAPHIC RECORDING FROM GROUP 1

While the children identified 'being bad' as a causal factor in why the teenagers chose to vandalise, they were also conscious that people can act out when they are sad, or that it might have been an unintentional escalation due to a lack of meaningful activity. The children also devised solutions for how the teenagers who set the fire could receive justice, these included: punishing them with a warning or giving a fine, with most young people agreeing they should pay for the damage. Others thought it was important to find out from the young people why they did it, and help them to understand what they did was wrong. If they were sad or angry, the young people suggested teaching them mindfulness and breathing techniques, or sending them to therapy.



# THERAPY

COUNSELLING + SUPPORT FOR THOSE WHO NEED TO TALK

mental health

SHOULD DEPEND ON CIRCUMSTANCES LIKE WEALTH, BACKGROUND + SEVERITY OF CRIME

“IT SHOULD NOT CHANGE THE PUNISHMENT!”

“YOU DON'T HAVE THE RIGHT TO PUT OTHERS AT RISK”

# FINES

PENALTY

TOTAL FINE £££

# PUNISHMENT

HELP

VICTIMS SHOULD HAVE MORE SAY!

THE CRIME AFFECTS THE VICTIMS LIFE FOREVER

# REFORM

REDUCES COST OF JAIL !!!

THERE SHOULD BE A SYSTEM FOR REHABILITATION

“PUT THEM BACK ON THE RIGHT TRACK”

NO MONEY NO SUPPORT

THEY CAN BECOME ACTIVE MEMBERS OF SOCIETY

SO THAT THEY DON'T HAVE TO RELY ON CRIMES

“IT'S HARD TO REBUILD LIFE AFTER CRIME”

While the children were cognisant of the complexity of 'doing something wrong' or offending, in almost all circumstances they felt that regardless of the scenario a punitive element was required to achieve justice.

F: *“Ok, great. So let’s take your example. I need to sell drugs to get money for my family, and I’m doing something wrong. And you want to help me by getting me skills and qualifications and a job so that I don’t have to do that. Do I still need to go to jail; do I still need the jail part?”*

Child: *“yeah you still need that punishment part”*

**Young Person, Group 2**

In some circumstances, *“some people have done things which are too bad to be given an opportunity to change”* (Child, Group 4) and these often included higher tariff offences, which cause serious harm.

Prison was often the children’s reference point as a site of justice, as the clearest and most widely used form of punishment. Children made similar and interchangeable conceptual arguments about both prison and punishment: there are multiple ways and means to achieve justice through punishment.

Punishment was frequently reasoned as *‘teaching [wrongdoers] a lesson’*. Punishment was seen to serve the purpose of *‘scaring people straight’* (deterrence) or practically apprehending people in order that future or further offending was not possible (incapacitation) in the case of prison.

Child: *“The reason why they would send them to the police station is because they need to learn what they’ve done is bad...but keep them in jail so they will not do it again.”*

**Group 1**

However, children were conscious that punishment may have limited effectiveness as a deterrent:

F: *“So, do we think that would stop people from doing things that are bad then?”*

Child: *“Well, it might not...because they might when they get out of jail they might go out and do it again...you have to try and make them learn their lesson... you have to explain...”*

Child: *“Even if they tried again [to do something wrong], they would know ‘do you know what I’m going to get put to jail’...but if they still really wanted to do it, they would...”*

**Group 1**

In addition, children accepted the premise that people change, and should be offered help and support to do so.

Child: *“I would say an opportunity to change, everybody can change....”*

**Group 3**

Child: *“I had [inaudible] so like I thought if someone gets put into jail it gives them time to reflect on what they’ve done and like maybe change as a person.”*

**Group 2**

Children most often saw punishment as having a dual purpose of acting as the consequence and providing support to improve circumstances.

Child: *“yeah lot of criminals even after they’ve been in prison turn back to crime most often because they don’t have a choice... so not only would it be better for society if we reformed criminals cos there would be less crime... because you’d reform them they’d become active members of society, they’d be able to get jobs and things like that. And they’d be off the streets and there would be less crime.”*

**Group 2**

F: *“ok and what if when I’m caught by the police, I tell them ‘look it’s not my fault, I have a problem with alcohol’, ‘I’ve got poor mental health and I use alcohol to cope and that’s the reason I’ve done this’. Does that change the response?”*

Child: *“I don’t think that changes the punishment but I think you should help.”*

Child: *“Yeah, you should be given help but that shouldn’t change it...”*

Child: *“maybe even when you are in jail you should get counselling.”*

Child: *“Yeah cos a lot of people who go to prison suffer from mental health cos obviously going to prison isn’t an easy thing so counselling and therapy should be offered in jail.”*

**Group 4**

Prison was often viewed as a means of accessing rehabilitation, a place where people could access opportunities to address underlying issues leading to offending behaviour, or receive support to mitigate the impact of imprisonment.

Child: *“during your jail time, as well as the fact that you are separated from your family and society and that is a punishment in itself but I feel like part of your time should be that skill building and giving them qualifications for when they leave prison. Cos obviously they aren’t doing anything in prison are they, so they are sitting there in prison doing nothing anyway, why not give them opportunity to better themselves so that when they do leave they’ll make a positive impact on society and the community rather than a negative one”*

**Group 2**

Yet, despite their commitment to the need for some element of punishment, children were particularly aware of the range of negative outcomes of prison. Children noted in particular the strain imprisonment has on reintegration, for example due to criminal records, as well as the strain it puts on relationships and mental health.

Child: *“I think as well if you are in jail for a long time you come with no money, maybe your relationship with your family are different, like it must be hard to rebuild a life when you’ve been shut away for so long ”*

**Group 2**

Child: *“the jail doesn’t help, the jail doesn’t work ”*

F: *“why not”*

Child: *“it makes them harder and like, more mental. ”*

Child: *“it gives you worse mental health”*

Child: *“its just boring int it, [inaudible] and then you’d end up killing yourself. You’d have nothing to dae”*

Child: *“see if your gonna go to the jail your no gonna come out nice. ”*

Child: *“see quite a lot of people who get sent to jail for a long time, they turn psychotic. All they do is go to the gym and fight until they come out. ”*

**Group 4**

## RESTORATIVE JUSTICE

The children tended to talk about justice in respect of the wrongdoer, and how their actions, circumstances and consequences determined a just response. One aspect of justice not addressed by children directly was restoration, which provides an alternative to the philosophies of punishment discussed above. Once prompted, children considered the role of the person harmed in creating a just experience. They had divergent views on the role of victims and restorative aims in the pursuit of justice.

For some children the role of the victim could interfere with justice due to their potential to have an overemotional response,

Child: *“it depends, it depends on the way they hold a grudge...If they are close family member they might be biased towards hating that man now... but someone who’s just seen it might be less emotional ”*

**Group 4**

Child: *“no... I think it’s the judge or the teacher.... and the victim will put on way longer than it should have been if it was the judge who picked“*

F: *“Ok so why do we think that [the victim] might choose a really high sentence?“*

Child: *“take advantage of their power... ”*

**Group 1**

Other children acknowledged the insight which could be provided to by the victim, which is needed to achieve a just response. This was related to a consideration that those impacted deserve, or have a right to have their voice heard in issues which affect them.

Child: *“[ the person harmed] would know what kind of crime that person had committed...yes”*

**Group 3**

F: *“So what would the purpose be then of [the victim] being involved? ”*

Child: *“so I’ve got a voice- so they can see things from my perspective”*

**Group 4**

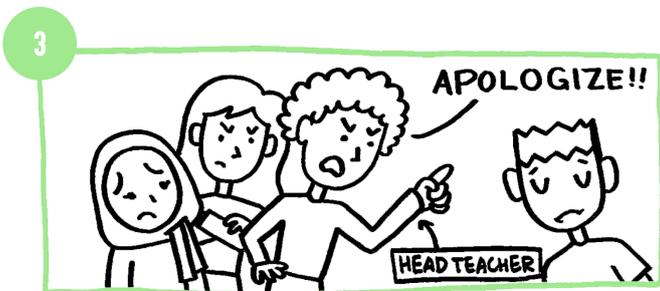
When exploring their experiences of justice one child shared their own experience of justice as a restorative practice.

F: "And how did it make you feel, getting an apology?"

Child: "It felt good to know he understood and obviously apologising. So not only did he apologise he acknowledged what he did was wrong and understood the consequences. It was good to hear him apologise and to understand he knew just how bad it was."

Group 2

### EXPERIENCE OF JUSTICE | GRAPHIC RECORDING FROM GROUP 2



Restorative justice aims to make reparations primarily but not exclusively between the wrongdoer and the person harmed. Group 2, the all female group, particularly when discussing gender based violence, were conscious of barriers to victim participation in justice.

Child: *“by them speaking up about it and going to the police they are actively standing against, they are actively fighting for their rights so there is that?”*

Child: *“it’s a big thing for victims to come forward cos there’s a lot of pressure and anxiety that comes with [inaudible] yeah especially sexual offences, for survivors of those sorts of crimes to come forward is like a really big... [interrupted]”*

Child: *“yeah cos they’ve probably been blackmailed to stay quiet.”*

Child: *“maybe even when you are in jail you should get counselling.”*

Child: *“yeah blackmailed and pressured. And not to mention with sexual offences especially, the stigma that comes with it and the victim blaming.”*

**Group 2**

For group 2, while there were concerns for victims including victim shaming, and outcomes of prosecution, overall the group felt that reporting, and being active in the pursuit of justice was essential to notions of social responsibility, and access to rights and oppression.

Child: *“If you choose not to do something if you know someone is bullying someone else, or hurting someone else or whatever, then if you don’t actively stand against it, then you eh, it benefits the person that’s doing wrong so essentially you are on their side even if you don’t help them [murmur agreement]. Cos you’ve not stopped them so they seem to think ‘ok you’ve not said anything so that must be ok’ [some agreement of others]”*

**Group 2**

RULE #1!  
NO GRASSING



Group 3, in contrast to the notion of social responsibility, saw reporting wrongdoing and participating in justice as 'grassing'. Not only was this a socially undesirable action, it was seen as ineffective in achieving any sort of justice. Particularly, this group couldn't see 'the point' in seeking an apology, as they felt it would be insincere and wouldn't change the circumstances of the event.

FG: *“what about victims then, do you think they should have a say?”*

Child: *“I wouldn't want to grass. ”*

FG: *“what if they had hurt you or someone you care about, would you want the opportunity to share how you felt about what happened? ”*

Child: *“why would you want to draw attention to yourself ”*

Worker: *“you'd want them to say sorry? ”*

Child: *“what's sorry going to do? I wouldn't care (inaudible)”*

Child: *“they could just say sorry and they aren't sorry and that's it done with”*

**Group 3**

or this group of older children, rather than being an empowering experience, reporting could have the potential to escalate the situation, bringing a greater risk to safety than the potential positive outcomes of reporting.

Child: *“if you grass you'd get smashed, stabbed. ”*

FG: *“and being a grass is worse than spending 3 years, 5 years in jail”*

Child: *“aye, whose gonna like ye, who is gonna trust ye”*

Worker: *“and that's the mentality of the area”*

**Group 3**

While approaching participation in justice differently, both groups show an awareness and concern about the effectiveness and consequences of doing so.

# EXPERIENCES OF JUSTICE

The second workshop aimed to explore children's experiences of justice in order to better understand the diversity and similarities of their experiences, ascertaining which elements supported feelings of having a just experience, and experiences where they felt they had been unjustly treated and why.

Storyboards provided the opportunity for children to share their experience or 'story' of justice and this was used to prompt discussion. Children were reassured that if they did not feel comfortable sharing their own experiences they could use scenarios they had seen or heard of which they thought were relevant for the topic. They were encouraged to think of positive, as well as negative experiences - and that these experiences could have happened outwith the formal justice system i.e. in school or in the community. Some parts of their experiences highlighted underlying conceptualisations of justice or their aspirations for the future of justice and are featured throughout the report.

## AGE

A common experience for children was that they are often under suspicion when living their young lives - this included being in public spaces such as parks and public transport; and in shops. They felt they were the victim of unjustified surveillance (being watched or followed) and often being pre-emptively warned about causing trouble.

Child: *"People always assume we've done something, we get followed around, constantly under suspicion"*

**Group 3**

Child: *"I'll go next, I wrote about the time in McDonald's. So we were there and we weren't doing anything, just being ordinary like everybody else. The woman that worked there came over and told us if we were causing any hassle she'd tell us to leave. And we were a bit like why, and we hadn't done anything. And there was loads of people there but I felt like it was because we were teenagers. And now after that anytime I'm in like a shop or that I always feel like people think I'm gonna be up to no good, but I'm not doing anything wrong."*

**Group 3**



Child: *“like, stereotypically if you are a group of teenagers and you are out, stereotypically the police are going to think like aw they are going to be drinking, they are going to be taking drugs, or they are going to be doing something illegal. So if you are there, even though you might not be doing some of that stuff you can still get like into bother for it.”*

**Group 2**

Similarly, concerns or complaints about wrongdoing raised by children were seen to be taken less seriously by adults, than if reported by adults.

Child: *“they should be able to act on our word, but they won’t because \*we’re children [silly voice] they don’t see that as a viable option”*

FG: *“do you think it would make a difference if it was me or [worker 1] or [worker 2] that went in and made the exact same request or raised concern as we’ve been saying? ”*

Child: *“yes because its coming from a \*superiors mouth [silly voice]. We’re just the wee rats”*

**Group 4**

The older children explored the tension between being a child in certain senses and being treated, or expected to act, as an adult in others.

Child: *“well no, it should be a build up. The school shouldn’t expect golden behaviour but, like you’re a wean your changing from a wean to an adult, hunners of things going on and your lifes changing all the time so your gonna be a wee dick sometimes. There shouldn’t be an expectation for you to act the way an adult acts, cos your no”*

**Group 4**

Child: *“yeah because teenagers were expected to behave like adults, like mature. But were treated like children. So its better if we’ve to be taken seriously to be more official than actually and formal, but obviously you have to take into consideration that we’re still like pretty young, so not as formal as an adult court, but that formality just shows that your being taken seriously. Your not just some little kid. Your not just an immature child.”*

**Group 2**

In terms of responding to wrongdoing, the children prioritised the sanctity of the childhood years and their importance for development and rehabilitation.

Child: *“what if a 17 year old kills somebody and a 40 year old kills somebody, it should be the same punishment”*

Child: *“the 40 year old has however many years more life experience, he has had more jobs, more references this is one of the first things the 17 year old has done wrong in his adulthood, he’ll be immediately be seen as unreliable and untrustworthy. Whereas the 40 year old can say I’ve got all these references, this was just a blip in my record.”*

**Group 4**

Child: *“you cant obviously treat a 16 year old the same as a 30 year old cos we’re still developing, in the sense that we’re still obviously learning responsibility and things like that”*

Child: *“I think that when you are a teenager a few years is a lot more valuable than when you are an adult ”*

Child: *“and you change a lot...”*

**Group 2**

## GENDER

In addition to age, gender had an important role in children's personal experiences of justice. The stories children told highlighted the complex experiences of gendered justice. Group 2 was an all-girl group. Accordingly, their experiences were highly gendered, centring on everyday sexism through to more concerning incidents of misogyny and gender based violence.

Child: *“well kinda, she got catcalled.”*

Child: *“ok so I was walking home at lunch time and I went to turn a corner and this man started peeping his horn at me and it was in front of loads of people, and as he got closer he started chapping the window of the car, and then when I was right next to the van he started reaching for the handle of the door as if he was gonna jump out and catch me and take me away.”*

**Group 2**

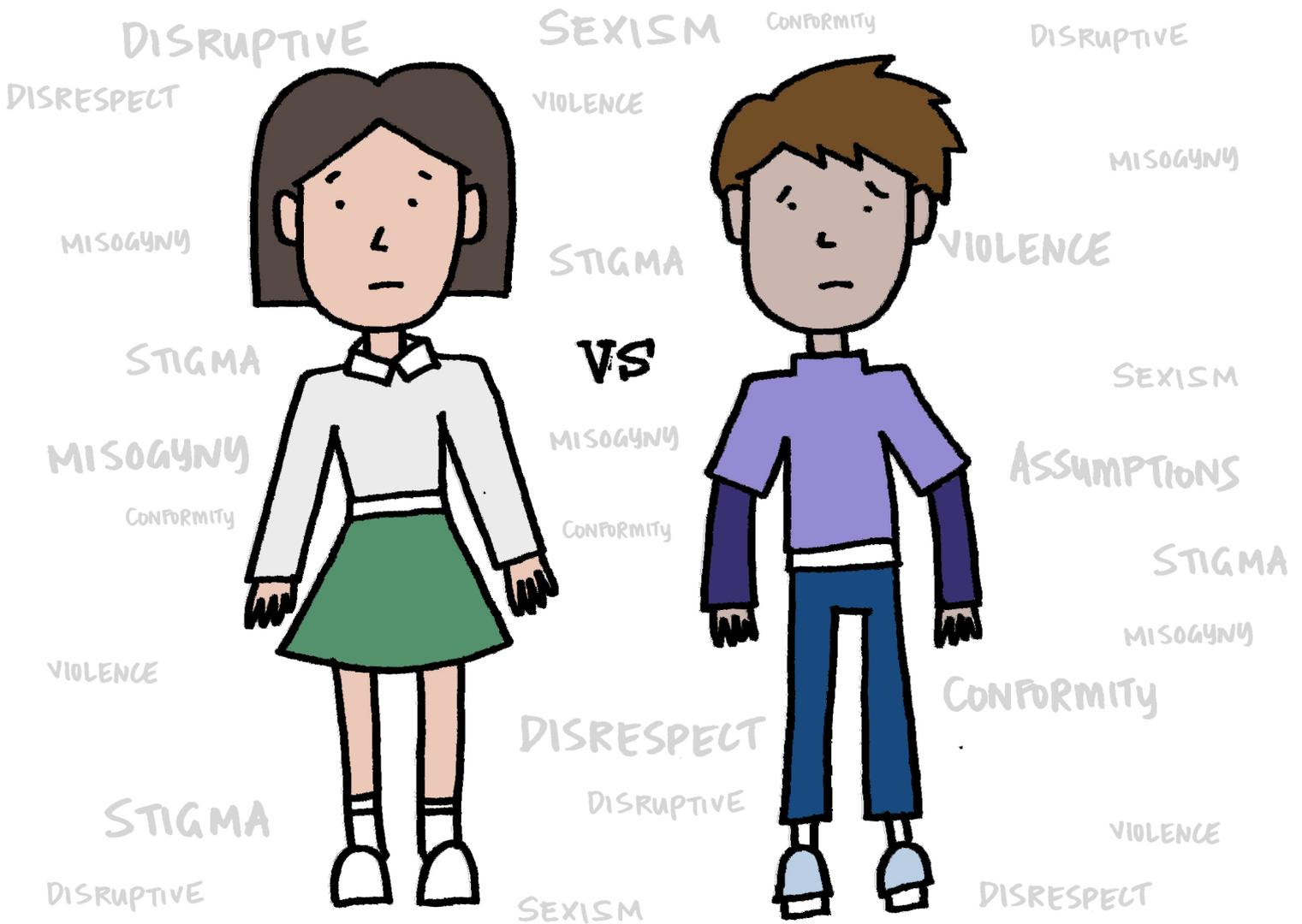
The girls in the group explained how their experiences were common, took place from an early age and were generally viewed as an accepted or expected part of growing up. In addition, this group felt that these experiences were expected and therefore not challenged as robustly as they should be. Similarly, they felt that they, as females, experienced the consequences rather than those perpetrators - changing their behaviour rather than the behaviour of others being curtailed.

Child: *“yeah like as a young girl, and I was out and about if I saw a group of boys I would cross the road before I walk past them because I know something would be said to me”*

YP: *“and none of us should feel like that, like my dad finds it difficult letting me out the house. And it's not just boys it's like grown men as well. And he's just worried.”*

**Group 2**

# DIFFERENT EXPERIENCES BASED ON GENDER



Moreover, the girls felt that they could be chastised for not conforming to 'traditional' gender narratives:

Child: *“and no offence to the school but there’s been like stuff that’s like boys will come in and they’ll be wearing joggy bottoms or a hoodie and that’s not school uniform but a girl can have a skirt that’s not down to their knee and they get in trouble for it.”*

**Group 2**

The boys in the other older groups (3 and 4) discussed a different side to the gendered justice they experienced. For them, negative expectations of maleness (i.e. violent, disruptive, and disrespectful) created a bias where they were routinely blamed for incidents.

Child: *“Yeah lets use the fire alarm example, say over the course of a term the fire alarm got set off 10 times, 9/10 it was a boy, say the 1 time it was a lassie I feel personally like the lassie would get less of a punishment than the boy.”*

Child: *“I dunno I just feel like its always a boy that gets blamed if something happens.”*

**Group 4**

And to some extent this notion of stigma and bias based on 'appropriate gender traits' was validated by the girls too:

Child: *“even in class its so much different if a girl misbehaves in class and a boy misbehaves in class, cos it’s expected of a boy. Like these things are expected of boys.”*

Child: *“yeah there’s an automatic assumption that as girls we’ll be more mature”*

**Group 2**

## TRUSTED ADULTS

Central to children being able to experience justice was the role and notion of trusted adult. By sharing their experiences and reflections on interactions with adults, children highlighted the values and attributes which are valued and complimentary to a just response.

Across the groups, children did not on the whole feel listened to by adults on the issues which are of concern to them; similarly they felt they had very little choice or agency to exercise control in areas which matter to them, particularly in school.

Child: *“I always feel like there’s no enough, like at school there’s never really like a place they say if you have an issue come here.”*

Child: *“some times I feel like there is no where to go”*

**Group 2**

Child: *“they always focus on and prioritise the things that don’t matter [to the yp]”*

Child: *“they wouldn’t care if you were a pure mess, as long as your there”*

Child: *“like aye I might be dead smart and that but my mental health could be down there [low]”*

**Group 4**

Group 3, who could already be considered ‘excluded’, struggled to think of adults who supported them at all.

FG: *“what about justice in school”*

Child: *“you kidding we never get justice in here, they never listen to you”*

FG: *“ok, who does listen to you? “*

*[Silence]*

FG: *“there must be someone who listens to you”*

Child: *“[youth worker], and [support for learning worker] are awrite sometimes”*

**Group 3**

For many of the children, while there may have been good relationships with professionals there were caveats and barriers which limited these. Rules and roles meant that relationships felt bounded:

Child: *“like with a PE teacher, everything is sport related but with [youth worker] you can talk about anything’*

**Group 3**

This led to concerns about the ability for children to genuinely trust adults. Children also gave examples where adults misused trust, or acted unjustly, left children feeling unheard, unempowered and unsupported. This was a particular concern in regards to conflict between peers, where it was seen to be inevitable that trust would be broken, or they would receive some sort of punishment too. This has the potential to undermine children and young people’s faith in systems and processes of justice.

Child: *“Like you have your guidance teacher but they have classes so they’re never really free to talk. And you don’t always trust your guidance teacher.”*

Child: *“yeah and it always gets out, like there will be rumours and stuff and they’ll want to know your business and stuff.”*

**Group 2**

Child: *“I remember I had a thing with another girl not being very nice to me online, and I told my mum and dad about it and I was really upset about it and my dad ended up taking my phone off me and I tried to say to him, ‘ I know you think if I don’t see it I wont get upset about it, but I feel like I’m being punished for something that I’ve not done’”*

**Group 3**

Key to positive relationships was respect, listening, understanding, actively trying to help and finding things in common. While children's experiences of the police tended to be negative, leaving them feel disrespected, under suspicion or judged and treated unfairly, an exception to this was where the boys in Group 3 spoke positively of their campus police officer. They described interactions with the campus cop as different to police encounters in the community:

Child: *"she's got time for you"*

Child: *"She doesn't go off her heed at you"*

Child: *"she talks to you"*

**Group 3**

Group 4 identified grandparents as a good example of trusted adults. In the stories they told about grandparents there was a mutual respect and admiration but also a trust and responsibility not to let them down. Grandparents were seen to protect your needs irrespective of all else, with a trust and loyalty to the child above anything or anyone else.

Child: *"you feel listened tae, you don't feel like they've pure jumped down on ye"*

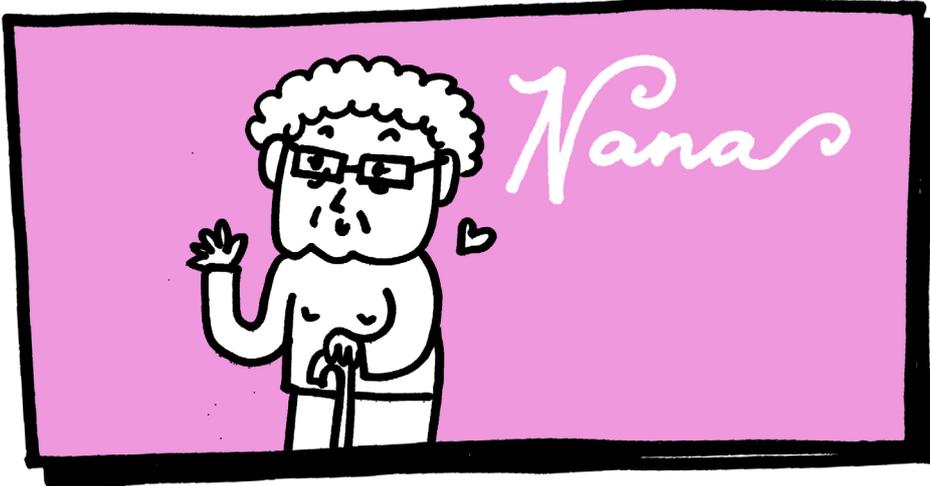
Child: *"there's less pressure on your shoulders, you don't need to worry as much"*

Child: *"somebody that knows you that well"*

Child: *"speaking to them calms you down"*

**Group 4**

## WHICH ADULTS DO YOU FEEL YOU CAN TRUST?



I think I'd rather go to my granny than my actual maw but I know, thats cos my maws like my parent and my grannys your parents parent. And your granny usually sides with you anyway

They defend you in front of your maw and then later they go ...dont you do that to me again, dont you do that!

They are not blinded by what you've done

They are just trying to protect you



Aye like you go to your maw and you say 'maw I've done this' and she goes 'WHITT' but you go 'gran I've done this' and she goes 'right, cmon tell me whats happened'



## MISTRUST OF JUSTICE SYSTEMS

While often justice was considered in a formal sense, the groups (3 and 4) from one large urban area subscribed to an alternative informal system of justice, which tended to not involve authorities. Pursuing formal justice was considered detrimental to just outcomes, instead abiding by alternative codes and informal justice practices which lay firmly between individuals and within communities. While accepting that this alternative model of justice may not be deemed acceptable to others, it was justified as a fairer and more effective system.

Child: *“In [area] when you see trouble you don’t always think of the police as the first people. There might be a different form of authority. Like if I saw someone lying dying on the street I’d call an ambulance but if I saw trouble I wouldn’t phone the police. They don’t even pop into your head.”*

Child: *“Its private justice, mean its keeping the community safe. Its just like gonna build it up for them more. I’m not saying it’s the right thing to do but its justice for them, whoever wins the fight gets justice.”*

Child: *“See if you phone the polis, it’s just gonna build it up mare and mare and mare and make it worse.”*

**Group 4**

The children in this group did not see how following accepted police-led forms of justice would result in positive outcomes for them or their community. There was a lack of trust displayed in these formal systems and to be seen colluding in them would mean you were considered yourself to be untrustworthy, and would most likely result in retaliation.

Child: *“say someones carrying an knife or a substance, you don’t want to tell a teacher cos if they find out, after that they’ll end up going for you so you don’t want to end up in a scenario where your getting jumped or that...”*

Child: *“ysee unless its life threatening, mind your own fucking business”*

**Group 4**

By not subscribing to more formal notions of justice, formal processes and systems of justice were viewed as ineffective and unrealistic for these groups.

Child: *“your no gonna phone the polis greeting, what are they gonna dae?”*

Child: *“naw, obviously no”*

Child: *“what they gonna do, charge them?”*

Worker: *“aye”*

Child: *“right so they go to jail, then they come out they are just gonna come looking for you and it’ll be worse.”*

Worker: *“what if they get community service and think to themselves that wasn’t a good idea, I shouldn’t have done that”*

Child: *“aye but that doesn’t happen mate”*

Child: *“\*disparagingly\* whit you think they are gonna get out and chap your door and say sorry and that \*laughs\*”*

**Group 3**

Group 3, who were excluded from mainstream education, particularly struggled with the concept of justice. Instead, they found it easier to talk about authority, respect, power and fairness. This arose through conversations of ‘street codes’ which made it acceptable to behave in certain ways in pursuit of justice. Despite perhaps having the greatest experience of justice out of all the groups, there was much less discussion of formal systems - courts and the police. By dismissing formal notions of justice, these children are excluded from access to this sort of justice - other than in resistance to its presence, which was seen to only make things worse. Traditional values of justice - forgiveness and punishment - were to be found in informal systems of justice; and traditional systems of authority for delivering justice were treated with very little trust or respect. Rather, justice was something which happened between individuals, in homes, on the street. It was to be found between people, rather than sought from the state or an external body.

# ASPIRATIONS FOR JUSTICE

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The final session of the workshops asked children to consider how they would like to see justice improve in the future by detailing their aspirations for a just Scotland. As with the other workshops, the children were left to develop the boundaries of this system, including interpersonal, informal, formal and criminal notions of justice in order for their priorities to be definitively identified by the children themselves.

A criticism often raised in the participation literature is that often children and young people are asked to comment or improve areas of practice or delivery which have already been 'approved' for redesign by adults.

A number of activities were designed to encourage children to think about improvements and innovations in justice settings which are important to them. The youngest group were asked to create a justice superhero, outlining the superpowers they would require to fight injustice. The second and fourth group were shown a tweet by the Justice Secretary, which reads that he would be outlining the SG justice priorities in Parliament that day.

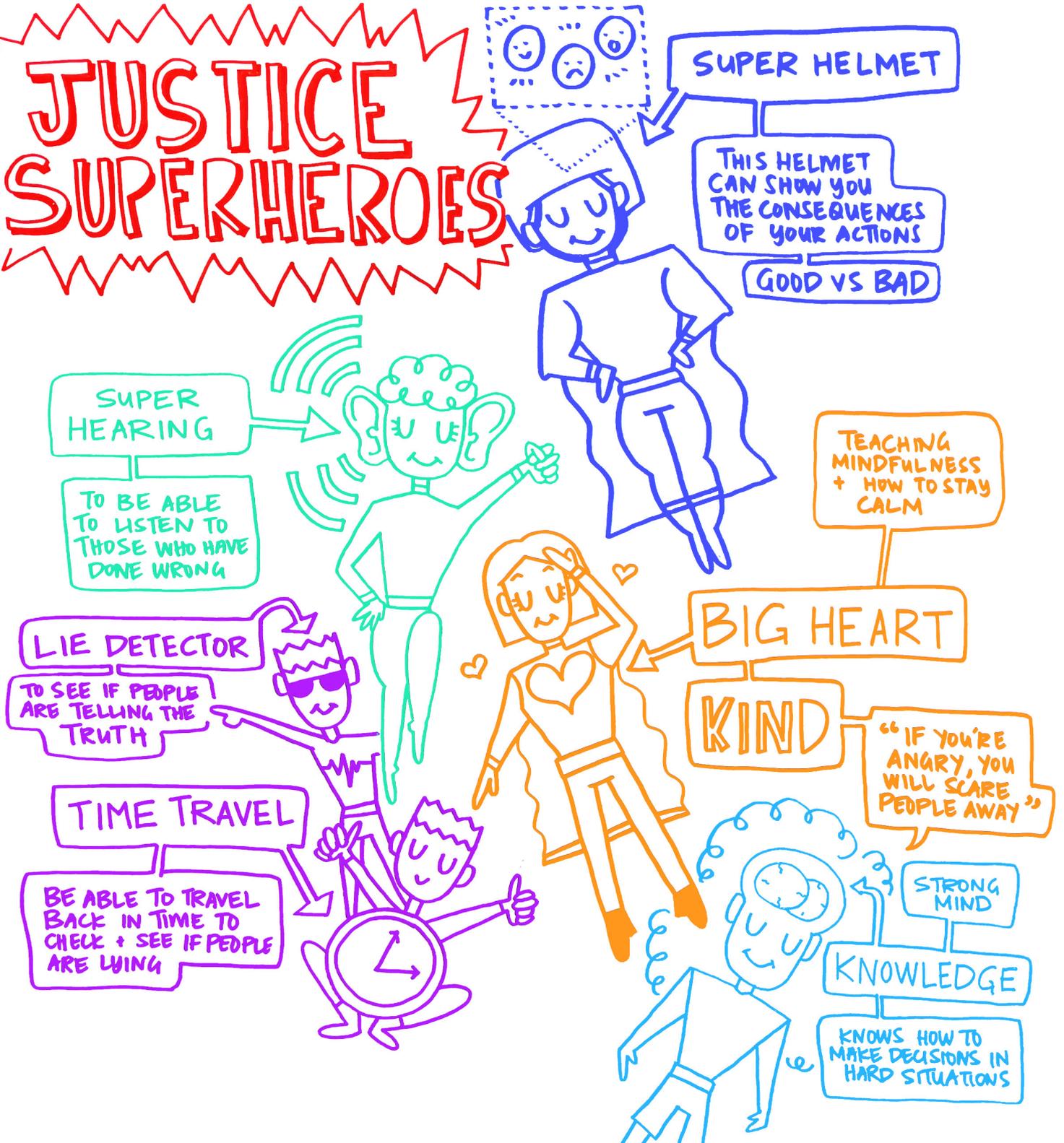
The children were encouraged to think of themselves as justice ministers with the power and influence to shape and change justice policy, practice and priorities, and present them back to the group.

## **SUPERHEROES**

The children were asked to design a superhero fit for the future of justice. This task was designed to show the stage of comprehension children have at this age to think about justice, as well as the qualities they think are needed in individuals to support justice.

A lot of the powers of superheroes were around finding out and telling the truth, but also involved time travel and being able to see the consequences of your actions. Children at this age clearly understand that right and wrong exists, but they equally believe in the redemption of individuals and that having prior knowledge of the impact of your actions would stop people from doing wrong. This is a hopeful and positive notion of the future of justice which promotes education into the impact of wrongdoing, and promotes consequential thinking.

# JUSTICE SUPERHEROES



Child: “[shows picture] I’ve been trying to make like an iron man suit...for people who have done bad stuff to put a helmet on them, and the helmet shows what happens to them if they do bad stuff. And after, it shows what will happen to them if they continue to do bad stuff...and then it will show what will happen if they do good stuff”

FG: “Do you think that would change people’s minds, if they knew what would happen to them....”

Child: “Yeah, because if they kept doing the bad stuff, it’d give them a fright and they could go to jail for like a long time. They could not want to go to jail when it shows them that and they would start doing the good stuff.”

**Group 1**

In addition, the children identified qualities which are required to promote justice. These again mirror the redemptive narrative outlined above, promoting kindness, care and compassion even to those who have done wrong.

Child: “My superhero is kind, and her superpower is she can travel in time.”

FG: “Why is it important she is kind?”

Child: “If she is kind...she can listen to what they say...and they might speak up more and trust her...and if she is angry, she may scare them a bit....”

**Group 1**

## MANIFESTO

The older children identified a number of related priorities across the two groups (Group 2 and 4).

Prioritising and ensuring the voice of children was heard in justice decision making was important, particularly to the participants in group 2. This extended to allowing children the right not to be forced to take part in justice arrangements which they did not want to.

Child: *“Right so for my policies the first one is that the resolution to the problem should be whatever the child thinks it is. Like it shouldn’t just be the proper people who make the decisions, it should be what the child wants as well”*

Another significant priority was access to mental health support. Counselling and therapy was noted as important for both victims and wrongdoers. As well as access to formal support the young people noted that it is important to offer more informal opportunities for young people to open up to trusted adults and people who can offer support.

Child: *“The second one, there should be like councillors and stuff so if a child had problems they need to talk through it could be with someone informal and that”.*

For the children, future proofing the justice system would still require an element of punishment. However, their priority for moving forward to punishment was also an opportunity for rehabilitation through greater access to services and support. This included increasing access to services (youth groups and charities in communities) that could support children and young people in their local communities.

Child: *“I think the reformation and rehabilitating one is important. That kids who commit crimes have a chance at a second chance and their living circumstances improve so they’ve got a better chance...”*

The final issue that was raised as a justice priority was about ensuring better and equal treatment for all children and young people. For some children this meant ensuring professionals such as police have adequate training and understanding of welfare and equality issues; and for others it required greater access to fulfil basic needs; for example, better minimum wages and access to sanitary products.



## JUSTICE MANIFESTO | GRAPHIC RECORDING FROM GROUP 3

# CONCLUSION

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Children see justice as someone facing the consequence of their [wrongful] actions. Children often spoke about justice as something dispensed by adults and/or professionals, rather than between children or in the community. This suggests children see justice as an adult led pursuit which potentially removes justice as something they can achieve in their own interactions or spaces. This point was supported by their experiences of justice, which suggest access to justice is not impartial.

Children felt both in terms of gender and their age, they were not afforded the same access to justice as adults. Their experiences highlighted the importance of trusted adults in supporting their access to justice - by increasing their voice, choice and control. This requires trusted, respectful and equal relationships, which are genuinely child-centred. Children's aspirations for justice included hearing the voice of all young people, increasing their agency and choice in issues which they feel are important to them. This has significant implications for aligned pursuits in Scotland at present including The Promise, the Incorporation of the UNCRC, and aspirations for a Rights-Respecting Youth Justice System.

While cognisant of the range of circumstances which can lead to and influence wrongdoing, children could not conceive of justice without an element of punishment - most often equated to prison. Children ascribed to many traditional philosophies of punishment including deterrence and incapacitation; however, rehabilitation was the most significant aspect of justice. This was a substantial aspect of their aspirations for justice as children promoted opportunities to learn and move on from wrongdoing.

Children were thoughtful in the recognition of underlying concerns which lead to wrongdoing and the prioritisation of support, particularly in regards to mental health and wellbeing. This suggests children may be supportive of the significant development in sentencing guidelines for young people in Scotland which prioritises rehabilitation as a central aspect of the judicial process - further increasing their confidence in justice in Scotland.

Children did not spontaneously explore restoration, an alternative to punishment, as a means to achieve justice. When prompted they viewed restorative practices as complex, albeit their limited experiences were positive, and for some it was an important aspect of

social responsibility. However, older children were aware of barriers which would impact on their willingness to participate in justice - including stigma, fear and ineffectiveness. For some of the children there was a deep mistrust and dissent for formal processes of justice. This group viewed their alternative, informal, community-based systems of justice as fairer and more effective.

Their ability to harness justice on their own terms, in contrast to the majority of the other participants, may be based on a range of factors outwith the scope of this report i.e. experience, access or intersectional issues. Irrespective of this, not addressing barriers and taking seriously concerns, which were raised across all groups of children, in regards to formal justice system and processes renders them excluded from accessing justice, with no other alternatives than to subscribe to alternative systems.

Children's aspirations for justice including increasing access to support and services, as well as ending unequal treatment. This suggests while restorative practice is to be extended in Scotland, there may be work required to address barriers with particular groups of young people, and on specific justice issues, to ensure the offer is accessible for all.





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