

# A perfect storm for children at risk?

## Preventing a post-pandemic surge in the criminalisation of children

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### About this briefing

This is the first of a series of policy briefings by the Alliance for Youth Justice to explore the challenges and opportunities created by the impact of the COVID-19 pandemic on children and the youth justice system.

It draws on a comprehensive [literature review](#), in-depth interviews with national stakeholders, consultation sessions with Alliance for Youth Justice (AYJ) [members](#) and Young Advocates, and [a series of research papers](#) by our project partners at Manchester Metropolitan University (MMU).

This briefing explores the significant risk of a surge in the number of children drawn into the justice system following the pandemic; as a result of the exacerbation of children's vulnerabilities, support services under severe strain, and the complex and challenging policy context. It argues that concerted, coordinated action is required to respond to children at risk, and makes recommendations for policymakers and commissioners.

### About the research project

This [research project](#) aims to understand the unprecedented implications that the COVID-19 pandemic has had on each stage of the youth justice system. Delivered in partnership between the Manchester Centre for Youth Studies (MCYS) at MMU and the AYJ, the project is documenting the impact of the pandemic on policy and practice responses, and children's perspectives. The project is funded by the Economic and Social Research Council (ESRC) as part of the UK Research and Innovation's rapid response to COVID-19.

### Introduction

A significant amount of work has been undertaken in recent years to reduce unnecessary child arrests and prioritise diverting children away from the criminal justice system, towards support that aims to address unmet needs and focusses on positive long-term outcomes. Avoiding escalation into the formal justice system by promoting diversion is a key tenet of the Child First approach to youth justice, adopted by the Youth Justice Board (YJB).

Evidence shows diversion is more effective at reducing offending than the formal youth justice system.<sup>1</sup> When the justice system intervenes, it is often in place of other forms of support, resulting in a response focusing on the 'offender' rather than the child. This can act as a key moment when behaviour begins to negatively spiral, labelling and reinforcing criminal identities in children.

But without coordinated and concerted action, the commendable progress made over the last decade to reduce the criminalisation of children risks being reversed in the post-pandemic period. The range of vulnerabilities and social problems that have been compounded by the pandemic coincide closely with many of the factors that bring children into conflict with the law, with disadvantaged and marginalised communities suffering particularly adverse impacts.

The pandemic's aggravation of issues prevalent amongst children in the youth justice system risks more children coming into contact with the criminal justice system and being criminalised. Crucially, increased levels of vulnerability must be met by support from services outside of the criminal justice system, to alleviate the risk that the emerging needs of vulnerable children are not overlooked by the appropriate agencies when they are diverted.

This highlights the critical need for preventative strategies and diversionary provision to be developed and implemented as a priority. Strong leadership and co-ordinated action are required to address the impacts of the pandemic and prevent an influx of children into the youth justice system.

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# Elements of a perfect storm for children at risk

## Exacerbated vulnerabilities and inequalities

***“We have to stop this idea that we've all been through the same storm. We might have done, but certainly not in the same boat”***

*- Director, Research in Practice*

The impact of COVID-19 on children is devastating, as not only have pre-existing vulnerabilities been exacerbated and safeguarding concerns heightened, but many more children and families are now exposed to new and increased challenges.

The wide-ranging impacts on children's social, emotional and mental health needs are yet to be fully realised, and are widely projected to be profound. Children are living in an unstable world, experiencing lengthy periods of isolation, disruption and uncertainty. They are increasingly disenfranchised, disengaged and dealing with trauma as a result of their experiences during the pandemic. Poverty, inequality and housing instability were increasing pre-pandemic and are worsening,<sup>2</sup> with significant psychological and behavioural implications on children,<sup>3</sup> and research emphasising the link between poverty and offending.<sup>4</sup>

### **Mental health and wellbeing crisis**

The children's mental health and wellbeing crisis has been greatly exacerbated by COVID-19.

Prior to the pandemic, the proportion of children with identified mental health needs was already climbing, with referrals for mental health support increasing nearly 60% between 2017/18 and 2019/20.<sup>5</sup>

During April-September 2021, referrals increased by 81% compared to the same period in 2019.<sup>6</sup> Children's access to mental health services has been disrupted, and as children's exacerbated vulnerabilities and mental health support needs continue to emerge, referrals are expected to keep growing.

Practitioners anticipate longer waiting lists for Child and Adolescent Mental Health Services (CAMHS), and potential increases in thresholds for accessing support as demand increases. The longer-term impact of the pandemic on the mental health of children is a significant concern for professionals.<sup>7</sup>

***“There's a whole range of things that YOTs will see young people coming through with, more serious mental health issues, issues that haven't been picked up, issues that haven't had that support”*** - Senior official, HMI Probation

Mental health needs are prevalent among children who offend,<sup>8</sup> around three quarters of children on Youth Offending Team (YOT) caseloads are assessed

as having mental health needs.<sup>9</sup> Issues with mental health can not only bring about behavioural difficulties that can trigger children's involvement in the justice system, they impact how children experience and respond to the system, and criminalisation itself can negatively impact mental health,<sup>10</sup> creating harmful cycles that can spiral into crisis. Girls in the youth justice system are more likely to have mental health concerns, so may be particularly impacted.

Therapeutic and mental health support needs to be available before children reach crisis points. If support is not available or sufficient to meet children's needs, this increases the risk that negative behaviours may emerge or escalate that increase risks of criminalisation.

### **Challenges in education**

The pandemic has drastically disrupted children's education, highlighted existing disparities in provision and exacerbated inequalities.

Children from deprived communities with less time and resources for home schooling have experienced the greatest barriers to accessing education during the pandemic.

***“Some of our children have missed eighteen months or more of schooling, and if you've already got additional challenges in your life, how are you going to make that successful transition into further training, employment opportunities?”*** - YOT Manager and AYM representative

Poor educational engagement and exclusion from school are clearly linked to children's involvement in crime, violence and gangs.<sup>11</sup> 81% of children who have been cautioned or sentenced have been persistently absent from school, 71% have been suspended, and 10% permanently excluded.<sup>12</sup> 59% of children who have been permanently excluded have been cautioned or sentenced.<sup>13</sup> In the years before the pandemic hit, school exclusion and suspension had already rocketed. There were growing concerns about unofficial exclusions or 'off-rolling' pupils.<sup>14</sup> Consequently, the number of children outside of mainstream education, including in Pupil Referral Units, had already increased significantly.<sup>15</sup>

During the pandemic, the number of children in alternative provision<sup>16</sup> increased 10% between the academic year 2019/20 and 2020/21.<sup>17</sup> Children not in mainstream education are more vulnerable to becoming a victim of exploitation, and experiences of exploitation can make exclusion from school more

likely.<sup>18</sup> 41% of children that have attended alternative provision have received a caution or conviction.<sup>19</sup>

Continuous high levels of pupil absences due to COVID-19 into 2022 show disruption to schools is 'far from over'.<sup>20</sup> The Children's Commissioner and Head of Ofsted have raised the alarm about thousands of children who have been persistently absent from school since the pandemic began.<sup>21</sup> These children who have 'fallen off the radar' are falling behind in school, as well as being at increased risk of abuse, exploitation and violence due to a lack of oversight and support from schools.<sup>22</sup>

***"We're already seeing signs that attendance for some vulnerable children is not going back, and we need to have a real concerted effort, focusing in on making sure children are in the classroom, are ready to learn and that we don't have children who are potential honeypots for gangs."*** – Senior Civil Servant

This persistent disruption to education and training is likely to have particular issues for children in or at risk of involvement in the youth justice system, due to the prevalence of pre-existing issues with educational engagement and attainment and children being Not in Education, Employment or Training (NEET). 7 in 10 children in the youth justice system have assessed concerns around learning, education, training and employment.<sup>23</sup>

Children in the youth justice system are significantly less likely to have achieved key educational milestones and are significantly more likely to have Special Educational Needs and Disabilities (SEND),<sup>24</sup> with 80% of children cautioned or sentenced recorded as having SEND.<sup>25</sup> Children with SEND have suffered in particular due to the pandemic having 'highlighted and intensified longstanding issues in the SEND system'.<sup>26</sup>

Urgent action is needed to re-engage children in education, foster supportive school environments as children adjust and deal with the fallout of the pandemic, stop school exclusions, and improve support for children with SEND and those outside mainstream education. This is critical in preventing a lost generation of children locked out of opportunities and left at increased risks of exploitation and criminal justice involvement.

## **Exposure to abuse, exploitation and violence**

Throughout the pandemic there have been reported increases in safeguarding risks to children, with growing concerns among national stakeholders about their exposure to various forms of abuse, exploitation and violence.

***"A perfect storm in terms of pressure on families and people not being able to get out and escape and have some of the distractions that they might normally... that made a pressure cooker in some homes"*** – Policy Official, Home Office

Children have not been in school and the professionals and services that usually may have been available to support them have struggled to keep an eye on them, to reach and engage them, and to keep services running. Children in care are particularly at risk of falling through gaps, yet despite this the government weakened children's social care safeguards,<sup>27</sup> at a time when more support was needed, not less. Drug gangs adapted rapidly to the pandemic, finding new methods of targeting children.<sup>28</sup> Practitioners report children involved in gangs are getting younger, are more likely to have complex needs and SEND, and girls are increasingly targeted. It has become harder to get children out of vulnerable situations due to a lack of opportunities, school exclusion, economic pressures, and gang grooming methods.

***"We weren't seeing the same adaptation, innovation, amongst those who want to keep kids safe, as we were amongst those who want to hurt kids."*** – Director, Research in Practice

Referrals to children's services throughout the pandemic have been around 10% lower than in the previous 3 years,<sup>29</sup> and between March 2020 – March 2021 decreased 7% compared to the previous year.<sup>30</sup> Practitioners have reported seeing increased complexity in cases, and are concerned there will be an influx in cases as referral pathways such as schools are restored.

***"Problems are not being spotted early enough and by the time they are referred, they are much further along, hedging crisis point"*** – Senior Civil Servant

Experiences of victimisation, abuse and maltreatment are so prevalent amongst children in the youth justice system<sup>31</sup> that a recent study of children on YOT caseloads concluded the youth justice system is essentially punishing trauma.<sup>32</sup> These experiences can indirectly and directly lead to children committing offences and ending up in the criminal justice system, for example through escalating harmful behaviours as a consequence of trauma or unmet needs, or through coercion, grooming and exploitation. Children who are victims of child criminal exploitation continue to be

criminalised despite a National Referral Mechanism and statutory defence that should prevent it.

***“A demographic completely missed, completely disconnected. And when your primary methodology of supporting those young people is out of reach for them, well, you don't know what they're doing or where they're going or who they're doing it with. And so, risk just climbs” - CEO, National Youth Agency***

### **Children's interactions with police**

The police are a crucial gateway to the youth justice system and how they interact with children and respond to their behaviour is critical. This is particularly important at a time when the government is recruiting 20,000 new police officers, when children's welfare needs are increasing, referrals have been disrupted and access to preventative support is at risk. Police may therefore increasingly act as the first point of contact for a growing number of vulnerable children.

In the years prior to the pandemic there was an erosion in neighbourhood policing.<sup>33</sup> Since 2017 the use of stop and search has been increasing despite a lack of evidence supporting its effectiveness at reducing crime<sup>34</sup> and clear evidence that its use is racially disproportionate. Trust and confidence in police is already damaged, particularly amongst over-policed racially minoritised communities.<sup>35</sup> When relationships between police and children are strained, children are less likely to report victimisation, less likely to cooperate, and interactions are more likely to escalate and result in criminalisation.

***“Policing has been at the heart of the government's response to COVID, so that entirely predictably would impact upon those racialised and working class communities that are already subject to over-policing.” - Academic and community organiser***

During the pandemic, many children have continued to be arrested and detained by police, even overnight. Police interactions with children have exacerbated existing tensions. Children have felt unfairly targeted based on their age, class and race.<sup>36</sup> There is a feeling that the police have used COVID-19 regulations as an excuse for increasing harassment, enforcement and stop and search of certain communities, and there are reports of police using disproportionate levels of force.

***“I've had some really nasty cases through this pandemic where the children have been really badly assaulted by police...one client in particular got stopped by the police for apparently cycling through a red light, he then got properly dragged to the floor...had one of the officers' knees on his neck” - Senior youth solicitor***

### **Children in contact with the justice system**

Children in the youth justice system are particularly vulnerable and often face multiple disadvantage, making them likely to be some of the worst affected by the pandemic. The impacts described in this section risk increasing the number of children coming into contact with the system. For children already in contact with the justice system, known to police and YOTs, or who have previously been in conflict with the law, these impacts on children's lives risk escalation of offending behaviour and being drawn further into the criminal justice system.

There must be recognition that for many children in or on the fringes of the justice system, the pandemic is 'an additional trauma to an already extensive list',<sup>37</sup> and it is more important than ever to identify and respond to what is driving offending behaviour to prevent spiralling levels of criminalisation.

### **Deepening racial inequalities**

***“At every turn, certain young people are facing barriers that push them or attempt to push them into the remit of the criminal justice system, which often produces injustice rather than justice for the most marginalised in society” - Academic and community organiser***

The Lammy review identified disparity in youth justice as its greatest concern. Racially minoritised children experience discrimination before, during and after their contact with the justice system.<sup>38</sup> They are more likely to face adverse experiences, school exclusion or suspension and are more likely to be in care. Racially minoritised children are over-policed, disproportionately targeted in stop and search, more likely to be arrested, and less likely to have access to diversion.

***“I worry that too often, particularly for some of our Black, Asian and Multiple Ethnic Heritage young people, that we're so far away from them trusting us at all, that they would prefer to do whatever it takes to get in and get out of that criminal justice process as quickly as possible, rather than engage in diversion and early intervention. This is our responsibility to rebuild that trust, not theirs” - Commander Catherine Roper Metropolitan Police Service, NPCC Lead for Children and Young People***

With the pandemic's harms disproportionately felt by racially minoritised children and the health and economic impacts on their communities, disparities at the front end of the justice system are likely to increase. Racial disparities in youth justice are already an acute and worsening problem, and urgent action is needed to address the inequitable experiences of racially minoritised children.

## Access to support at risk as services under severe strain

*“We need to make sure that the right resources are there at the right time, and that the right children are accessing them, and that’s got to be the priority more than anything, really” - Senior civil servant*

The pressure on statutory and voluntary sector services as a result of COVID-19 should be seen in the context of systems already under severe strain, that were already struggling to meet children’s needs before the pandemic.

Across statutory and voluntary sector services that provide support to children and families, the pandemic has impacted the ability to engage and intervene. As concerns over children’s vulnerabilities and exposure to abuse, exploitation and violence increased, the ability and capacity for services to engage with children and identify these safeguarding risks decreased, at a time when they are so crucially needed. With children needing more support in the face of adversity, disruption and reduction to vital support services both during and beyond the pandemic, this leaves more children at risk of their needs escalating.

### Pressures on services adapting to COVID-19

The pandemic has changed how services work with children and with each other, and it is currently unclear what the longer-term impact of new ways of working will be. Staff wellbeing and retention is at risk as workforces have had to learn new ways of working, create or adapt services, and deal with staff sickness and isolation. Practitioners have raised concerns about this impacting capacity to work in a trauma-informed way.

*“The children that need the most support and have the most complex needs, it tends to be the workers are not having the capacity to hold the levels of trauma and do the work that needs to be done. And therefore, the young people are backing away as a defence mechanism, as a response to the abruptness of the services.” – Youth practitioner*

One of the most significant adaptations in response to the pandemic has been moving to digital provision, giving rise to significant concerns around digital poverty and children’s experiences. For some children engagement online or over the phone works well and has improved communication, and some services have been able to reach wider groups of children and professionals online. But many children are excluded by a lack of access to technology and broadband. Many issues are reported about building relationships and trust over technology, about picking up concerns, reading social cues and body language, and the fundamental need for children to socialise. There

are concerns that as the easier and cheaper option, digital provision may become the norm, particularly worrying given the growing evidence base around the importance of relationship-based practice.<sup>39</sup>

*“There’s a view that everything can carry on digitally and digital’s cheaper than face-to-face. So, you know, the belief is: “that’s great. Our money can go further if we do more digital stuff”. But we know from young people, they’re bored stiff of digital. They want to be with their friends.” – Director of Children’s Rights charity and social worker*

### Children’s social care failing to meet needs

The child safeguarding system was already in crisis pre-pandemic. In the decade up to 2019, the number of child protection plans increased by almost a third,<sup>40</sup> and the number of children being taken into care grew every year.<sup>41</sup> Significant funding cuts coupled with rising demand left local authorities having to shift support away from early help towards intensive interventions such as safeguarding and children in care - cutting spending by almost half - with local authorities in deprived areas experiencing the biggest cuts.<sup>42</sup>

The system is designed primarily to support young children facing risks within their family context, but the number of older children coming to the attention of services and entering care due to risks outside their home has ‘exploded’ in recent years,<sup>43</sup> and the system is struggling to respond.<sup>44</sup> These children are increasingly in unsuitable, unregulated, and out of area placements,<sup>45</sup> leaving them at risk of exploitation and involvement in gangs or serious violence.

*“A huge hidden, invisible group of children... who are on the edges of gang involvement and potentially at risk of exploitation, but current safeguarding arrangements are not addressing that, not identifying those children and putting in place services to prevent that involvement” – Senior civil servant*

With thresholds for children’s social care already increasing pre-pandemic,<sup>46</sup> and expected by practitioners to increase further as demand increases, this creates a risk that services that have not traditionally focussed on extra-familial harm will be even less likely to be able to respond to these children’s needs.

Given pressures and inadequacies in the care system, there is a huge risk that the growing number of children at risk of harm due to the pandemic are not receiving the support they need and will end up caught up in the criminal justice system in the future. There is a clear need to take a

contextual approach to safeguarding children that considers their environments, social networks and relationships outside the home.<sup>47</sup>

***“Within our children’s social care system, we have to have a revolution really in understanding and meeting the needs of older children... we need our children’s social care system to really care about children whose behaviour is difficult for us.” - Director of Children’s Rights charity and social worker***

### **Mental health services not matching demand**

Children must be able to access timely support to prevent their mental health deteriorating,<sup>48</sup> before it becomes harder for support to be effective.<sup>49</sup>

As referrals for child mental health services skyrocketed prior to the pandemic, access to support did not anywhere near keep pace with the increase in demand, with long waiting times following referrals and four in five children not being seen within the government’s targeted timeframe.<sup>50</sup>

***“CAMHS has a huge waiting list, which is only going to increase.” – YOT Manager and AYM representative***

In light of growing need due to the pandemic, practitioners are seriously concerned about the capacity of mental health services to meet a future increase in numbers of referrals,<sup>51</sup> amid rising thresholds of need for accessing support.

### **Youth services struggling to survive**

The welfare and wellbeing of children is at significant risk, exacerbated by COVID-19, and youth services should be there to support children through this time and provide hope and opportunity for the future.

Detached youth work, for example, which engages with children directly in their social spaces and focusses on relationship-building, is a valuable tool in understanding children’s environments and creating safe places, playing a key role in the contextual safeguarding of children.<sup>52</sup>

Despite evidence that youth services play a crucial role in supporting children, early intervention, and reducing risks of involvement in crime,<sup>53</sup> between 2010/11 and 2020/21 funding fell by £1.1 billion, a 74% reduction.<sup>54</sup> In that time at least 750 youth centres closed and over 4,500 youth work jobs have been cut.<sup>55</sup>

***“We’re going to lose a quarter of the youth sector or we’re losing it. It’s happening before our eyes now” –CEO, National Youth Agency***

The pandemic has greatly exacerbated existent funding pressures, with concerns that many youth services have to reduce provision, make redundancies, and even permanently close.<sup>56</sup> The impact will not be felt equally – with services most likely to be cut in low income areas.

***“We’re losing the key provision in the key places we need it, at the wrong time...a perfect storm” - CEO, National Youth Agency***

### **Specialist services and support**

Vulnerable children dealing with the fallout of the pandemic need services and support to be available that is tailored to meet their individual needs.

***“It’s about being able to provide proper therapeutic support that is thought through, that enables us to really contain the overwhelming emotions that young people are experiencing” – Youth Practitioner***

Support through early and targeted preventative schemes, available through voluntary sector organisations or some YOTs, can prevent harmful or offending behaviour escalating at a crucial point. However, provision is patchy. There are also concerns about the availability of specialist services that are designed with specific groups of children in mind, for example girls or racially minoritised children, who can fail to have their needs met by generic services, or feel they are not for them.

***“Need to see more of that age appropriate, gender sensitive, and trauma informed vision, because we already know that girls and young women in the criminal justice system are falling through the gaps of these more generic services. We see what specialist support is available, girls speak really high of it, we do see positive outcomes” - Research and policy professional***

Practitioners raised concerns about whether the children’s sector workforce is equipped with the skills or support to understand and respond to the needs of children, particularly specific groups such as girls or racially minoritised children, as their needs grow and change due to the pandemic.

***“We need to make sure counsellors are racially literate, they’re well equipped to provide counselling services to working class communities, communities of colour, young people, migrants” - Academic and community organiser***

## A complex and challenging policy context

*“Moments like this, they create opportunities, they will even create moments for us to imagine something different....but...the further entrenchment of inequality is far easier to pursue than a break with the current system.” - Academic and community organiser*

The pandemic provided an unprecedented opportunity to think radically about how to meet the needs of vulnerable children and the roles of central, regional and local government in delivering this support. Instead, it has exposed a lack of national strategy for children, systems and services struggling to meet growing levels of demand, and the urgent need for the government to take bold, co-ordinated action to respond to the impact of COVID-19 and address the side-lining of children in the years before.

### **Failure to prioritise children in policy**

*“It is bleak...it is the most deflating period in terms of optimism for children, because of the absence of real commitment to them.” – Director of Children’s Rights charity and social worker*

Despite the fallout from the pandemic having arguably had the most significant impact on children, the government has failed to prioritise them in its response.

Welcome steps have been taken to support children during the pandemic, including investments in public services and the voluntary sector. But government policies over the last decade have left an increasing number of children vulnerable and at risk of their needs escalating and being drawn into contact with the justice system. Actions during the pandemic have not gone far enough considering the scale of impact and need.

The government has repeatedly shown reluctance to support children during the pandemic, for example failing to take action to address the soaring cost of living; dragging its feet in extending free school meals provision; and removing an uplift in Universal Credit in October 2021 despite the expectation it would move 300,000 children directly into poverty.<sup>57</sup>

*“The knee jerk response of the state was to remove and reduce for children for whom they’re responsible. It wasn’t to give more, it wasn’t to treat this as an exceptional opportunity to understand, really understand, what children need and to bring together the resources and the know-how to make sure their needs are met.” – Director of Children’s Rights charity and social worker*

## A fragmented policy landscape

*“I think we have seen more powerfully than ever before the perils of fragmented policymaking, of disjoint and disconnects in our policy arena. If we are serious about things like Child First or if we’re serious about working together, why do we have these young people’s lives split across multiple departments?” - Director, Research in Practice*

Despite the wealth of evidence that children in conflict with the law are often extremely vulnerable, they are too often viewed as and treated separately to other vulnerable children. Involvement in crime can be the point where the child stops being seen as a child with welfare needs and starts being seen and treated as an ‘offender’. Within government, children in or at risk of involvement in the youth justice system fail to be a priority. They are impacted by policy decisions across multiple government briefs, all with differing understandings and priorities. In Department for Education policy, for example, children at risk are too often considered to be the responsibility of the Ministry of Justice or Home Office. While in those departments, children are a side-lined minority in justice and crime reduction systems designed for and focussed on adults.

*“When anything in Whitehall becomes something that falls through the gaps between two departments, that’s when it never gets sorted” – Senior Civil Servant*

There are current developments in the policy landscape for children that have the potential to weather parts of the storm explored in this briefing, but the developments are disjointed and lack a coordinated approach. Without an overarching role-holder or strategy for children at risk, multiple government departments are pursuing policies and programmes of work without a ‘helicopter view’ that considers how these various components might complement or contradict each other, where they overlap or where they leave gaps.

The government promised action following the landmark Timpson Review into school exclusions, but progress appears to be stifled, and punitive soundings about behaviour management and discipline appear to be contradictory to these aims.<sup>58</sup> Long-awaited updated statutory guidance on school exclusions and the SEND Review, expected soon, are important opportunities to ensure the links between education, SEND, criminalisation and exploitation are made clear,<sup>59</sup> address longstanding issues in education, and help prevent the impacts of the pandemic escalating.

The government recently announced 'SAFE Taskforces' and 'Alternative Provision Specialist Taskforces', providing targeted support to keep children engaged in education and reduce risks of exclusion and exploitation.<sup>60</sup> While one of the more welcome developments set out in the Home Office's 2021 Beating Crime Plan,<sup>61</sup> they are currently being rolled out in just 10 areas and 22 alternative provision settings respectively.

The National Youth Guarantee<sup>62</sup> announced recently by the government is a welcome renewed commitment to youth work. However, youth services have been decimated, and it is unclear how far the investment will go to achieving the stated aim of ensuring every child has access to youth services, opportunities and activities. Stable and sustainable funding is needed.<sup>63</sup>

The Independent Review of Children's Social Care is a critical opportunity to ensure the care system is equipped to respond to children's increasing and changing needs, and the increasing number of adolescents in or at risk of entering care.

Early help services that can address extra-familial harm are developing,<sup>64</sup> for example the Supporting Families programme, Family Hubs, and contextual safeguarding initiatives.<sup>65</sup> While welcome, there remains 'a dearth of effective joined up family-focused support for teenagers at risk'.<sup>66</sup>

Violence Reduction Units have been set up in 18 areas, and have included a focus on therapeutic interventions, 'teachable moments', and trauma-informed training,<sup>67</sup> but commitment to their future funding remains unclear. A Serious Violence Duty is set to be introduced that creates new statutory obligations for services to work together and share information to reduce violence, but its police-led approach raises concerns it will erode trust in services and increase racialised labelling.<sup>68</sup>

There are a number of initiatives underway, from different government departments, often with a focus on multi-agency working. Some of these are important opportunities for children at risk. But how the developments interact with each other, or not, is unclear. In a fragmented policy landscape, where numerous departments have different policy agendas and competing priorities, there is a real danger that children will fall through the gaps.

***"How are we mirroring and modelling the best of coherent, collegial, collaborative, boundary-spanning practice at local strategy level and then at national policy level? I don't think we are."*** - Director, Research in Practice

***"I think there would be a lot of benefit in taking stock at this moment in time and thinking about, actually, how do we provide for children across the piece and not necessarily the pockets of children's social care, children's families, children with special educational needs, actually, what is the approach to vulnerable children, because that's the thing that they have in common."*** - Senior Official, YJB

### **A punitive turn?**

There is a concerning shift in central government policy towards increasingly punitive measures for those who come into conflict with the law, and creating or expanding powers like stop and search and Knife Crime Prevention Orders that will widen the net of children within the realm of enforcement and criminalisation.<sup>69</sup> Such measures signal a shift in how the system treats children and responds to their behaviour, and given inequalities in policing, enforcement and sentencing, will exacerbate racial inequality.

Harmful measures in the Police, Crime, Sentencing and Courts Bill will marginalise and disempower children, for example anti-protest measures,<sup>70</sup> criminalising the Gypsy, Roma Traveller way of life, and increasing levels of disproportionate surveillance and enforcement.<sup>71</sup> Despite growing recognition of child criminal exploitation, the Nationality and Borders Bill will make it harder for victims to receive protection and avoid criminalisation through the National Referral Mechanism. A Care Review billed as 'once in a generation' had the starting premise that no more money will be spent on the care system. The Judicial Review and Courts Bill will make it harder for people to stand up for their rights, and voter ID is being introduced, disenfranchising already marginalised groups. Despite declaring a climate emergency facing pressures from young people concerned about their future, action remains limited. And in the era of George Floyd and Black Lives Matter, the government published a report by the Commission on Race and Ethnic Disparities<sup>72</sup> denying the existence of systemic racism, and continues its over-reliance on police to deal with social problems.

Punitive measures risk marginalising children at a time when focus needs to be on building hope for the future back up. The new Shadow Justice Secretary too has played into punitive narratives about the response to crime.<sup>73</sup> With vulnerabilities and inequalities increasing, it is critical to return to the strong evidence-base about what actually works long-term to deter crime.



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# Weathering the storm – the way ahead

## Vulnerable children must be at the heart of policy and practice

**Strong leadership and co-ordinated action are required to address the impacts of the pandemic and prevent an influx of children into the youth justice system.**

*“Pace is really important in this and what ministers can do is inject speed and urgency. They can make all the civil servants jump, make all local authorities jump, make the police jump. And they need to because otherwise there’ll be two years down the line before we get a plan and suddenly, well, all these young people are now on their way to court and already in the system.”*  
–CEO, National Youth Agency

The impacts of the pandemic, set in the current policy context, cumulate into a perfect storm brewing for children and put them at significant risk of criminalisation. Vulnerable children are falling through the cracks. Central leadership and coordinated strategy across government departments and policy areas is crucial, in order to weather the storm and prevent an influx of children into the youth justice system. This should include a particular focus on educational engagement and inclusion, early help, mental health support, adolescent safeguarding, and positive opportunities.

Concerted efforts are needed to ensure a joint understanding and prioritisation of the need to divert children exhibiting offending behaviour from the youth justice system wherever possible. Particular attention must be paid to the needs of racially minoritised children who have been disproportionately impacted by the pandemic and face particular challenges. The experiences and voices of children should be central to the development of future solutions.

*“The heightened attentions to extra familial harm and exploitation invites us to do much more connected, integrated thinking across that safeguarding youth justice interface, which has always been a blurred boundary anyway.”* -  
Director, Research in Practice

*“If you really want to tackle gangs later on, you’ve got to deal with the underlying vulnerability, so things like the SEND review and the early years support is so important”* – Senior Civil Servant

*“Having that clarity about what each partner is delivering, what the impact is on a young person, and that we’re all doing it with the same principles in mind, is probably the main thing. And with that context about what the child might be experiencing.”* - Policy Official, Home Office

**A national strategy should learn from adaptations to practice during the pandemic and feed down to local partnerships, to enable them to respond to local needs, tailored to their local populations of children**

There is a huge amount to be learnt from examining how services have responded to the pandemic and identifying good practice that has emerged. Pressures on services must be understood and addressed to ensure all children can access appropriate support.

There is clearly a role for digital provision moving forward, but there is consensus that it must be in addition to, not instead of face to face engagement. Careful consideration is needed as to how and when it is in the child’s best interest. No child should be left out in the cold because of digital poverty - all children need access to digital technology in this increasingly online world.

*“The pandemic has shown collaboration at local level, an expansive notion of partnership. I think that does offer a different space for local solutions. I wish that what government had learnt was actually local leaders do local stuff better. I don’t know if that message landed.”* -  
Director, Research in Practice

New partnerships, for example between local statutory agencies and community organisations, have enhanced collaborative working. Relationships and networks that have developed provide an opportunity to re-assess how local services work together to prevent children reaching crisis.

Re-evaluation of how services work and how they work together, prompted by the pandemic, also provides an opportunity to take a strategic view as to what services children need to be accessing, and what that support should look like. Community organisations that are led by and understand the communities they serve can improve children’s experiences and engagement with services and provide a continuity in support. Therapeutic support and interventions are also increasingly important for a generation of children dealing with increased levels of trauma due to the pandemic.

*“Therapeutic support, which is structured, which has got qualified professionals delivering it...really making sure that we are picking and investing in the things which have got an evidence base behind them.”* – Home Office Official

## A drive for maximum diversion

### Concerted efforts are needed to divert children to positive pathways outside of the justice system

*“This is a societal issue...there has to be a collaborative effort to try and tackle the challenges and support young people.” – Commander Catherine Roper Metropolitan Police Service, NPCC Lead for Children and Young People*

The perfect storm of COVID-19 creates a sense of foreboding for the future number of children coming into contact with the justice system. When children start exhibiting harmful or offending behaviour, criminalisation is often not the only or best option for those responding to them. Escalation into the justice system needs to be avoided wherever possible, with children diverted to support or interventions that tackle the root causes of their behaviour. Over the last decade commendable work has taken place to improve this practice, however many issues remain. In the face of the unprecedented challenges presented by COVID-19, focussing on diversion from the justice system, and ensuring all those diverted are accessing the support they need, has never been more important.

Diversion should always be considered when children have offended, ensuring that all options are explored before criminalising a child. But provision and access to diversion is inconsistent and inequitable.<sup>74</sup> Children from ethnic minorities are less likely to be diverted.<sup>75</sup> Eligibility criteria creates constraints.<sup>76</sup> Police forces’ awareness of and use of informal outcomes varies,<sup>77</sup> and YOT practitioners are concerned that increasing numbers of children being kept out of the system, for example receiving No Further Action by police, aren’t being offered support.<sup>78</sup> What is available in each local area varies.<sup>79</sup> YOTs work with partners to deliver diversion but report that funding issues create difficulties in delivering effective services,<sup>80</sup> and funding cuts to YOTs in recent years have impacted their capacity to undertake this work, having to use their limited resources on court-ordered interventions.<sup>81</sup>

Practitioners have raised concerns about the Crown Prosecution Service failing to review cases for suitability for diversion, and about a lack of clarity about what is available for children. Lawyers can successfully argue that a case should be diverted, but non-youth-specialist representatives can miss opportunities in the police station or in court, and because of legal aid arrangements a lawyer will not necessarily be making representations at the critical point between arrest and charge.

While arrests, cautions and convictions fell significantly in 2020/21, this is at least in part due to COVID-19 restrictions, reductions in crime, and court backlogs.<sup>82</sup> Practitioners have mixed reports about the extent to which the use of diversion changed during the pandemic. From feelings that the police and the Crown Prosecution Service have been increasingly willing to divert, to assertions that the amount and the seriousness of cases being prosecuted and taken to court has not changed. It is a concerning indication for the future that even during a pandemic, when there was a critical need to minimise children coming to court and entering the justice system, practitioners report many children were still being taken to court for minor offences.

With pressures on YOTs and other services having increased during COVID-19, the delivery of crucial diversionary work may be placed under further strain. Considering that the impact of the pandemic on vulnerabilities is disproportionately felt by racially minoritised children, combined with the exacerbation of mistrust, there is a risk looking ahead there will be greater disproportionality at this point of potential entry to the justice system.

It is critical issues in diversion provision are addressed to prevent unnecessary and inequitable criminalisation of children impacted by the pandemic. Ensuring that options for diversion from the formal justice system are available, accessible, understood and prioritised by police, CPS, lawyers, YOTs and partners is crucial. Investment in and commitment to diversionary work is needed to improve consistency and ensure a range of services are available that are culturally competent and can be tailored to address the individual needs of the child being diverted. Particular consideration needs to be paid to supporting the diversion of children with care experience and children with SEND, where the overrepresentation of both groups of children in the youth justice system suggests not enough is being done to identify and support their needs and prevent criminalisation.

## The focus of post-pandemic policing

Thousands more police officers on the streets at a time where children are increasingly vulnerable and unsupported is a huge risk, but a large intake of new officers is also a potential opportunity. Work needs to be done now to rebuild relationships between children and the police,<sup>83</sup> ensure the priority for all police is safeguarding and supporting children, rethink the use of disproportionate police powers, and address police behaviour that unnecessarily escalates interactions.

***“There is a real concern that police need better training, better understanding of vulnerable children in particular, to prevent unnecessary criminalisation of children.” – Senior Civil Servant***

There have been calls for the ‘4 E’s’ approach to policing COVID-19 regulations to be applied by police more broadly.<sup>84</sup> The ‘4 E’s’ approach - that enforcement should always be a last resort after engaging with the person, explaining the rules, and encouraging compliance - is similar to the vision outlined in the National Police Chiefs’ Council’s National Strategy for the Policing of Children & Young People, setting out principles of child-centred policing.<sup>85</sup> These principles, which also include having regard to the child’s safety, welfare and well-being, identifying and responding to vulnerabilities, considering the full circumstances of the child including victimisation, and hearing and respecting the voice of the child, must be the focus for all police. Police need child-specific training, and a better understanding of the communities they serve, in order to ensure safeguarding and diversion is prioritised.

***“The police need to be very, very clear about their safeguarding role and work much more closely with schools and local authorities in order to deliver on that safeguarding role... How do they help identify child who are at risk of criminal exploitation and make sure they get the safeguarding response that they need? Their job is not just to be the police officer there, they have a safeguarding role, and they have to be clear about that.” - Senior Civil Servant***

## Conclusion

Children in the youth justice system are some of the most vulnerable in society, and have common experiences of adversity, trauma, exclusion, marginalisation, and mental ill-health. It is clear that contact with the youth justice system is harmful, counterproductive, disproportionately impacts certain groups of children, and must be avoided wherever possible.<sup>86</sup> Momentous efforts in recent years have moved us closer to this point. But the pandemic has been devastating for all children, particularly those who were already vulnerable, facing disadvantage or discrimination. As children’s lives have gotten harder and unchecked exposure to harms both inside and outside the home has increased, more and more children are at risk of being drawn into the youth justice system in the future.

Children and those working to support them have shown incredible resilience responding to COVID-19 so far, but pressure is building and action is urgently needed to help them weather the ongoing, worsening storm. Children must be prioritised now to prevent unnecessary harm and victimisation, break cycles of poverty, abuse, and criminalisation, and ultimately invest now to save further down the line.<sup>87</sup>

Increasing racial disparities cannot be left unaddressed, and the current political climate of punitive policies and side-lining children needs to be actively countered to re-engage and inspire hope in children. This period of significant change and disruption presents an important opportunity to stop and reassess what children need, not just in order to avoid criminalisation, but to thrive.

There is a huge amount of work and investment already being undertaken in the response to COVID-19, but it is disjointed. With no unified understanding of or response to risks to children and their vulnerabilities, opportunities are being missed and children at risk of criminalisation fall through the gaps. The emergency response to the pandemic has built relationships across government and in the community, and demonstrated services’ capacity to change and to collaborate. Combined, these improved partnerships, emerging positive practice, and the evidence on effective responses to children at risk, provide a clear passage through the storm.

***“This generation of children face unprecedented threats to their childhoods and life chances. They deserve an unprecedented response.” – Children at the Heart Joint Statement<sup>88</sup>***

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# Recommendations

## A cross-government strategy for children, with a focus on children at risk

### **A Cabinet-level Minister for Children to be appointed to work across government departments to create and provide oversight and accountability for a national strategy for children.**

The children's strategy, similarly to the strategy and programme of work set out in the HM Government Levelling Up white paper,<sup>89</sup> to include:

- **Analysis of the scale of children's needs**, how these have been impacted by the pandemic, drivers of vulnerabilities, the adequacy of current support and how this has changed due to the pandemic, and future trends and challenges.
- **A policy programme of medium-term missions** to be achieved by 2030, with a particular focus on addressing issues around early help, mental health, education, safeguarding, disparities, and justice.
- **Systems reforms** needed to achieve the policy programme and ensure the prioritisation of all children, including those in or at risk of involvement in the criminal justice system.

### **To inform the children's strategy, the Children's Minister to review:**

- New practices and partnerships that have emerged during the pandemic to support children at risk.
- How current policy developments including the SEND review, Independent Care Review, and National Youth Guarantee are taking into consideration the needs of children at risk of entering the youth justice system.

### **Children's Strategy policy programme to include action to:**

- Ensure access to therapeutic support and mental health services that recognise the exposure to increased vulnerabilities and trauma during the pandemic, including consideration of rolling out a nationwide network of early support mental health hubs.
- Identify and support children who have fallen off the radar of the education system during the pandemic.
- Consider the re-establishment of a nationally co-ordinated youth service, with a focus on contextual safeguarding.
- Address the unequal impacts of the pandemic on families, particularly racially minoritised children to prevent an increase in racial disparity in the justice system.

### **Children's Strategy systems reforms to include:**

- Consideration of how best to foster genuine government partnership working, whether a children's taskforce should be created and if departmental responsibilities should be restructured.
- All new policies to be subject to Child Rights Impact Assessments and Equalities Impact Assessments

### **Children at risk of criminal justice involvement to be put at the centre of forthcoming reviews:**

- The forthcoming SEND review to consider and seek to address the disproportionate representation of children with SEND who end up in the youth justice system.
- The forthcoming update to school exclusions statutory guidance to set out links between exclusion, criminalisation and exploitation.
- The Independent Care Review to set out actions to ensure the Supporting Families programme and Family Hubs include sufficient funding and focus on support for children and families at risk of extra-familial harm.

## Maximising diversion

### A nationally coordinated focus on, and sufficient infrastructure for, maximum diversion from the formal youth justice system

- Secretary of State for Justice to increase the Minimum Age of Criminal Responsibility from 10 to at least 14 in line with UN recommendations
- NPCC to conduct an examination of the extent to which the National Strategy for the Policing of Children & Young People is being applied in practice, and identify enablers and barriers to achieving the principles of child-centred policing. This review will support the identification of child-specific, trauma-informed training needs among police.
- Ministry of Justice to collect and publish more data on point-of-arrest diversion, including: information on the availability of prevention and diversion schemes; data disaggregated by age, gender and ethnicity on children who are accessing diversion.
- Ministry of Justice to review funding allocated to the YJB and the way existing funding is prioritised, to ensure YOTs are fully-funded to be able to provide and focus on diversion work, and ensure a range of culturally competent diversionary services are available to support each child.
- Ministry of Justice to work with the police and CPS to conduct a review of children's cases that reach court but go on to receive a diversionary outcome. This review will support the identification of training needs among police, legal representatives and the CPS; the suitability of current diversionary scheme eligibility criteria; and confirm the role of the CPS in reviewing cases for diversion suitability.

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## Further information

For more information or if you are interested in arranging a meeting to discuss this briefing, please contact AYJ Policy Manager, Millie Harris: [millie.harris@ayj.org.uk](mailto:millie.harris@ayj.org.uk)

### Series of blogs that accompany this briefing:

[Prioritising vulnerable children and families for action and support - Anne Longfield](#)

[The neglected realities of child stop and search – StopWatch](#)

[Breaking down barriers to diversion after COVID-19 - Centre for Justice Innovation](#)

[Offering hope and care in youth diversion - Juvenis/DIVERT Youth](#)

### Literature review:

[The Youth Justice System's Response to the COVID-19 Pandemic: Literature Review](#)

[The Youth Justice System's Response to the COVID-19 Pandemic: Executive Summary](#)

### Research papers:

[Youth Offending Teams' Adaptations to Practice and Service Delivery: Research Paper](#)

[Children's Welfare Needs and Vulnerabilities: Research Paper](#)

[Partnership Working: Research Paper](#)

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### About the Manchester Centre for Youth Studies (MCYS)

The MCYS is an award-winning interdisciplinary research centre at MMU, specialising in participatory, youth-informed research that positively influences the lives of young people. MCYS believes young people should have the opportunity to participate meaningfully in decisions that affect them and employs participatory approaches to engage with young people across a range of issues. As an interdisciplinary research centre, the MCYS team brings together academics and practitioners from a range of disciplines. In addition to collaborating with young people and their communities, MCYS works with agencies and organisations across the public, private and voluntary sectors, both in the UK and internationally.

### About the Alliance for Youth Justice (AYJ)

The AYJ brings together over 70 organisations, advocating for and with children to drive positive change in youth justice in England and Wales. Members range from large national charities and advocacy organisations to numerous smaller grassroots and community organisations. The AYJ advocates for distinct systems, services and support that treat children as children first and foremost - underpinned by social justice, children's rights and a focus on positive long-term outcomes. AYJ aims to promote widespread understanding about the underlying causes of children coming to the attention of the criminal justice system, and champion approaches that enable them to reach their full potential.

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