

# Supporting young people involved in offending up to 21 years old: Extending the Whole System Approach

**Fiona Dyer, CYCJ and Kevin Carter, West Lothian Council**

March 2017

## Acknowledgements

We would like to thank Briege Nugent and all members of the Advancing Whole System Approach Group who provided comments, support and encouragement for this paper and to West Lothian Council for their support with the practice examples.

## Contents

<b>Acknowledgements .....</b>	<b>1</b>
<b>Contents .....</b>	<b>2</b>
<b>Summary .....</b>	<b>3</b>
<b>1. The Whole System Approach.....</b>	<b>4</b>
<b>2. Why extend the WSA to age 21 .....</b>	<b>6</b>
Brain development.....	6
Adverse childhood experiences .....	7
Attachment .....	8
Speech, language and communication needs .....	9
<b>3. Extending the WSA to 21 in West Lothian .....</b>	<b>9</b>
Early and Effective Intervention .....	10
Diversion from prosecution .....	11
Retaining young people in the Children’s Hearing System.....	13
Court Support.....	15
Alternatives to secure care and custody .....	16
Risk assessment and management.....	17
Reintegration.....	18
<b>4. Discussion.....</b>	<b>19</b>
<b>5. References .....</b>	<b>22</b>

## Summary

The Whole System Approach (WSA) was introduced in Scotland as an effective way of working with young people aged 8-18 who are involved in offending behaviours. Yet the problems faced by the majority of young people who are involved in offending do not simply vanish when they turn 18 and young people do not become adults over night. This paper argues that the help and support offered to young people under the age of 18 through the Whole System Approach should be extended to young people aged up to at least 21 years. Drawing on child development theories and knowledge about the childhood experiences many young people in the justice system have faced, this paper suggests that addressing the impact of these issues through a child-centred lens offers these young people more support to understand the adult system they are in; helps to address their behaviour in a way that is meaningful to them; and ultimately should reduce their involvement in offending.

This paper is timely as, with the implementation of the Children and Young People (Scotland) Act 2014, Community Justice (Scotland) Act 2016 and the establishment of Community Justice Scotland, there is a unique opportunity to develop a youth justice approach, within both the child and adult justice systems. This would truly capture the essence of the 2014 Act and lead the way in terms of the United Nations Convention on the Rights of the Child (UNCRC) that promotes young people should not be tried in adult systems but one that respects their rights (article 40) and that custody should only be used as a last resort (article 37). However, in Scotland these aims are still not being fully met with many young people entering the adult court system (Dyer, 2016).

There is now an acknowledgment in the legislation that young people require additional support up to age 26 if they have previously been looked after, in part due to them being less likely to have supportive relationships/pro-social role models. Taking this concept further, why are children and young people aged 16 to their early 20s expected to act as adults within an adult justice system, when other parts of legislation acknowledge that this age group need more support?

As the WSA was designed for young people under the age of 18, if extended to age 21, there are some aspects that would need to be changed or adapted to meet the needs of

older young people within a different legislative context. Although challenging, this is not impossible to do. Some local authorities in Scotland have already recognised that the approach needed to be extended and have included young people up to age 21 in parts of the Whole System Approach. West Lothian Local Authority in particular has extended all aspects of the WSA, where possible, to under 21's. This paper will examine how this works in practice and what lessons can be learnt before discussing the policy, practice and legislative changes required to make this happen.

## 1. The Whole System Approach

The Scottish Government launched the WSA in September 2011. Underpinned by Getting It Right For Every Child (GIRFEC) and the findings of the Edinburgh Study of Youth Transitions and Crime (McAra & McVie, 2010), WSA involves putting in place streamlined and consistent planning, assessment and decision making processes for young people who offend, ensuring they receive the right help at the right time.

The WSA is about identifying at the earliest opportunity when young people are in trouble. The ethos of WSA suggests that many young people involved in offending behaviour could, and should be, diverted from statutory measures, prosecution and custody through early intervention and robust community alternatives. WSA works across all systems and agencies, providing one holistic approach for young people who offend.

It has been rolled out across Scotland since 2011 after a successful pilot and provides a mechanism for early intervention and support while being integrated with approaches to deal with young people who continue to commit the most serious offences. The Scottish Government argue that:

*“It has played a significant role in creating the conditions for young people to address most offending behaviour in a direct focused way. This can be effective in preventing further offending”* (Scottish Government, 2015, p.5).

The WSA is made up of six areas which include:

- Early and effective interventions for low level offences, offering support and advice to young people in order to address need and change behaviour
- Diversion from prosecution, where the needs and risks of the young person are addressed
- Robust alternatives to secure care and custody where young people's risks and needs can be managed in the community
- Consistent approach to risk assessment and risk management
- Supporting young people in Court to help their understanding of the processes and to advise decision makers of community options
- Support in reintegration and transition back to the community from secure care and custody

And by doing the above, the aim of the WSA is to:

- Integrate processes and services across child and adult services
- Streamline consistent planning, assessment and decision making processes for young people who offend
- Encourage cases to be dealt with through the CHS rather than an adult court
- Retain more young people on Compulsory Supervision Orders through the CHS, where there is a need to do so

An evaluation of the WSA found there were many positives resulting from the approach including improvements in partnership working, information sharing and, according to the practitioners involved, improved outcomes for young people (Murray et al 2015).

With the exception of West Lothian, where agencies are co-located and where possible, prioritise young people up to age 21, this approach however has only been implemented for those young people up to age 18. The Scottish Government's new youth justice strategy – *Preventing Offending; Getting it right for children and young people* (Scottish Government, 2015) acknowledges that aspects of youth justice provision extends to 21 and that local partners should consider the “most suitable arrangements for young people involved in offending” (p.5).

## 2. Why extend the WSA to age 21

This paper collates evidence to suggest that the majority of young people who are involved in more serious or frequent offending are vulnerable and have faced many difficulties including trauma, abuse, neglect, bereavement, loss and being victimised themselves. Most struggle to understand the system they are involved in, as it is an adult system that does not take age into account. As the areas below describe, due to their experiences and brain development and problems with speech, language and communication, we cannot expect young people under the age of 21 to have the ability to fully understand information, systems and processes that are designed for adults. Therefore, why are we bringing them into an adult system? This paper argues that extending the WSA to young people aged 21 would go some way in addressing this.

### Brain development

Research suggests that the brain is continuing to develop until an individual is in their mid-20s, with the second key stage for both growth and re-sorting undertaken during adolescence (NIMH, 2011; Hassett, 2003). The brain changes significantly in early adolescence, becoming particularly malleable and open to development. This means that this stage is a crucial point in supporting young people who are at risk of, or are involved in, offending behaviour and require support to develop positive behaviours. It is recognised that at this stage, young people will engage in risk taking behaviours, for which they require support to navigate and manage this transitional stage in their development safely.

The physiological changes taking place within the brain during adolescence lead to a decrease in reasoned thinking and an increase in impulsivity and risk taking behaviour, which can be a feature of 'normal' adolescence (Sebastian et al 2009). Practitioners should be aware that in adolescence this is a key feature of young people's development, which can continue into their 20s, and there is a need to assess which behaviours may be part of this developmental phase versus which behaviours may require intervention to prevent young people learning or developing negative pathways, leading to more problematic and longitudinal behaviours.

In this context therefore, there is an argument that extending support to young people who are not fully developed as adults, and are also likely to be dealing with a range of issues that have hindered their development through childhood, is important. By supporting them into their 20s to address their behaviour through interventions and services that are age and stage appropriate it is probable that more young people would be supported to stop offending, and therefore the number entering into adult criminal justice services would be reduced (Mulvey et al, 2004; Weaver, 2015). There are questions of course about whether providing age appropriate support should be limited just to 21 (Prior et al 2011), with other countries and other youth justice services in Scotland now supporting young people to their mid-20s.

### Adverse childhood experiences

Young people involved in offending are often extremely vulnerable, with multiple and complex needs (Scottish Government, 2015). Research highlights that these can include issues with substance misuse; learning difficulties; poor mental health; speech, language and communication; self-harm/suicidal tendencies; experiences of bereavement, loss and victimisation; school exclusion; and adverse childhood experiences such as disrupted care placements from a young age and parental difficulties including substance misuse and exposure to domestic violence (Murray, 2012; Jacobson et al 2010; Vaswani, 2014; McAra and McVie, 2010). These experiences and the subsequent difficulties frequently experienced in coming to terms with past events, coping on a daily basis and managing future pressures can often manifest through anger, aggression, depression, substance misuse, and disruptive as well as offending behaviour (Jacobson et al 2010). This includes young people into their 20s.

Vulnerable groups such as 'looked after children and young people' are often identified as those who may benefit from developing resilience as it supports them to survive and overcome some of the difficulties they have faced (Bostock, 2004). Resilience promotes protective factors that support positive outcomes. The protective factors it addresses are associated with long term social and emotional well-being. Resilience is more likely to occur when professionals provide the services, supports and health resources that make it possible for young people to do well in ways that are meaningful to them/their family. In this

sense, resilience is the result of both successful navigation to resources and negotiation for resources to be provided in meaningful ways (Fox, 2010).

For young people of all ages, but extended to at least age 21 and to age 26 for those who have been looked after, it is essential that they are supported to develop resilience. Legislation now recognises that many young people have these difficulties, but many more, who have not been looked after but are involved in offending have also experienced many adverse life events, will not have a secure base, the social competences or values to develop and overcome the difficulties they may face<sup>1</sup>.

## Attachment

*“Attachment is a deep and enduring emotional bond that connects one person to another across time and space” (Ainsworth et al, 1978)*

Attachment theory (Bowlby, 1969) highlights that children need a relationship with a caregiver who is sensitive and responsive, who comforts them when distressed and enables them to feel safe enough to relax, play and learn. This is the basis of a secure attachment and children who are securely attached have higher self-esteem and empathy, and can deal with stress more effectively<sup>2</sup>.

Attachment security is important in adolescence/early adulthood. Securely attached young people are less likely to engage in excessive drinking, drug use and risky sexual behaviours. They are also likely to have fewer mental health problems. Adolescents benefit from parenting that encourages autonomy but also offers warmth, behaviour monitoring, limit setting and negotiation of rules and responsibilities (Moretti and Peled, 2004).

Many young people who are involved in offending have not had healthy attachments and have therefore not developed the necessary skills needed to lead law abiding lives. As professionals, we need to support young people up to at least age 21, as their brain continues to develop, to ensure that they are able to form healthy relationships that are not negatively impacted on by their early childhood experiences.

---

<sup>1</sup> For more information see youth justice practice guide; <http://www.cycj.org.uk/resource/section-10-mental-health/>

<sup>2</sup> Fostering & Adoption web-site; Department of Education

## Speech, language and communication needs

Speech, language and communication needs (SLCNs) are extremely common in youth justice populations. Major studies to date have focussed on prevalence of language difficulties in males, with 50% to 70% of this group found to have significant difficulties with language function. It is important to note that these individuals may also have other communication difficulties, and that there will be yet more young males in this population with difficulties in non-linguistic aspects of communication. This affects their ability to engage with school or youth justice interventions but often goes undiagnosed (Vaswani, 2014).

Whilst SLCNs are relatively common in all youth justice populations, they are particularly common amongst more severe and violent offenders (Snow & Sanger, 2011), and do not disappear when a young person reaches age 18.

Young people with SLCN involved in the justice system may be regarded as presenting a “perfect storm” of vulnerability and lack of protective factors. The striking cross-over between risk factors for SLCN and risk factors for offending goes some way to explaining the extremely high incidence of young people with communication difficulties in the criminal justice system. A court appearance presents communication challenges for any individual, regardless of communication ability. For young people up to age 21 with SLCN these challenges are intensified, endangering their ability to fully participate in proceedings. For more information see Section 9 of the youth justice practice guide<sup>3</sup>.

### 3. Extending the WSA to 21 in West Lothian

West Lothian is situated in the East of Scotland and is part of Lothian and Borders. In 2015 the population of West Lothian was 178,550; which accounts for 3.3% of the total population of Scotland. West Lothian is made up of rural and urban areas, with areas of deprivation and high crime rates.

In West Lothian the Youth Justice Team is responsible for all young people who offend under age 21. The team comprises of a Team Manager, five Social Workers and four

---

<sup>3</sup> <http://www.cycj.org.uk/resource/section-9-speech-language-and-communication-needs-in-youth-justice/>

Support Workers. This ensures all young people receive support within a youth justice context.

West Lothian colleagues believe that being co-located is not essential but it does help with the partnership working that is essential for the WSA.

## Early and Effective Intervention

Multi-agency Early and Effective Intervention (EEI) processes are an early intervention response to offence charges that might otherwise have automatically resulted in a referral to the Children's Reporter. The most important feature in any EEI model is that decisions are made on the basis of all available and appropriate information, from a range of agencies, and are timely and proportionate to the wellbeing need identified. Wherever appropriate young people are diverted away from formal processes and supported within their community.

Evidence suggests that for EEI to be effective it should be aligned with the principles of GIRFEC, in that the child is at the centre of any decision making<sup>4</sup>. It should enable timely and proportionate responses to offending behaviour by children and young people that places this behaviour in the holistic context of the child or young person's world. It should complement the statutory responsibilities of the named person and provide an effective multi-agency information sharing, assessment and decision making forum, which focuses primarily on the needs of the child or young person.

Within West Lothian, their joint partnership approach to EEI has produced positive outcomes for young people and their families. From July 2014 to March 2016, an average of 90% of young people had not re-offended in the following 12 months after their initial referral to EEI. Like elsewhere in Scotland, West Lothian's EEI process is only available for young people under 18 years.

Extending the approach to young people up to age 21 is likely to prevent many young people from being referred to the Procurator Fiscal (PF) by putting appropriate interventions in place at an earlier stage. This in turn would reduce the number of young people under 21

---

<sup>4</sup> EEI core skills document: <http://dera.ioe.ac.uk/22199/1/00472118.pdf>

that are prosecuted in adult courts. It would also allow these young people to be offered support that would meet their age and stage of development.

## Diversion from prosecution

Diversion is a 'direct measure' as an alternative to prosecution, available to the PF in all areas where there are diversion schemes. Decisions on how to respond to any allegation reported for consideration to the PF are taken on the basis of the overall circumstances of the case. Where the nature of an offence does not require prosecution in court the PF has the option to utilise diversion from prosecution schemes in order that a meaningful intervention can be delivered to address the identified concerns for that young person. The COPFS [Prosecution Code](#) stipulates the factors to be taken into account when making any decision in relation to prosecution.

Diversion involves the young person undertaking a programme and/or being directed to services tailored to their particular needs that are designed to deal with the underlying causes of their offending. "Intervention in this way keeps young people away from the formal criminal justice process and gives them the opportunity to make positive changes at a crucial time in their lives" (Scottish Government, 2011a, p.2).

Within West Lothian, the diversion scheme for young people is up to age 21 years. The PF notifies the Youth Justice Manager of any diversions being considered. The appropriate assessments are carried out by support workers who are trained in the assessment process and the necessary intervention with young people and their families (where appropriate). This holistic and streamlined process ensures that all young people receive a consistent approach that meets their needs as early as possible.

Where a young person aged 17 years and under is not being considered for EEI (due to the potential nature/severity of the offence) and being referred to the PF for further consideration, like those aged 18-20 referred to the PF, the Police Juvenile Liaison Officer and the Youth Justice Manager will assess if diversion is a possibility for the PF to consider. The Youth Justice Manager's assessment/comments will be noted on the Police Report at the point of submission to the PF to allow the most appropriate decision to be made.

This streamlined and holistic approach ensures that young people receive the appropriate level of intervention as soon as possible to meet risk and need. This also ensures where practical and appropriate that all young people under 21 years are diverted away from the criminal justice system.

It is always difficult to make fair comparisons across different local authority areas, where a broad range of factors can be influencing practice. However, to offer some context to West Lothian's rates of diversion from prosecution, table 1 highlights the number of young people under 21 diverted from prosecution from across West Lothian, East Lothian, the City of Edinburgh, Midlothian and the Scottish Borders. This highlights there is a substantial difference in the number of young people diverted per head of the population, with West Lothian diverting more young people aged 18-20 than neighbouring authorities. It is possible that including young people up to age 21 in current diversion schemes originally designed for under 18s, increases the number of young people diverted from prosecution and therefore not appearing in adult courts (though of course, it could also be that other areas have lower levels of offending thus less need to divert). We also need to acknowledge that we do not have sufficient evidence to say what impact diversion schemes have although by diverting more under 21s than prosecuting, this would adhere to the UNCRC principle, that young people should not be tried in adult systems.

**Table 1: Number of Young People Diverted from Prosecution in 2014/15 in Lothian and Borders<sup>[1][1]</sup>**

Local Authority	Number diverted age 16-17	Population aged 16-17	Numbers diverted per head of the population (16-17 yr olds)	Number diverted age 18-20	Population age 18-20	Number diverted per head of the population (18-20 yr olds)
East Lothian	6	2,348	2.5 (per 1000)	6	3,550	1.6 (per 1000)
Edinburgh City of	88	8,918	9.8 (per 1000)	34	19,834	1.7 (per 1000)
Midlothian	0	2,053	0.00	0	2,894	0.00
Scottish Borders	14	2,512	5.5 (per 1000)	2	3,611	0.5 (per 1000)
West Lothian	39	4,367	8.9 (per 1000)	33	6,328	5.2 (per 1000)

## Retaining young people in the Children's Hearing System

Those 16 and 17 year olds who become involved in offending behaviour can be dealt with in the Children's Hearing System or the adult criminal justice system depending on whether or

<sup>[1][1]</sup> (Diversion Ref: <http://www.gov.scot/Topics/Statistics/Browse/Crime-Justice/Datasets/DP>  
Population data: <https://www.nrscotland.gov.uk/statistics-and-data/statistics/statistics-by-theme/population/population-estimates/mid-year-population-estimates/mid-2015-and-corrected-mid-2012-to-mid-2014/list-of-tables>)

not the young person is subject to a Compulsory Supervision Order (CSO) or an open case to Scottish Children's Reporter Administration (SCRA).

If a young person is not subject to a CSO or an open case to SCRA and they are charged with an alleged offence after their 16<sup>th</sup> birthday, until the age of 17 years and six months, the Sheriff can request advice from the Children's Hearing System regarding the most appropriate disposal for the young person and if minded to do so, can remit the young person to the Children's Hearing System for disposal of the case. In these circumstances the young person will likely be placed on a CSO to support their wellbeing needs. The Sheriff can however choose to deal with the young person in the adult criminal justice system.

Under the principles of the WSA, social workers and panel members are encouraged to keep young people on CSO for as long as they require support. This allows them to make positive life decisions and emphasises to practitioners that non-compliance with the young person's care plan does not suggest that they are making good decisions. Termination of the young person's CSO therefore would not be considered in their best interests. Nor should a young person have their CSO terminated because they become subject to a community based disposal from court or a custodial sentence. Unfortunately, the Children's Hearing System is only for young people up to age 18. There would need to be a legislative change required to extend the age limit.

Within West Lothian, most young people under 18 who are jointly reported to the Children's Reporter and PF are dealt with through the Children's Hearing System<sup>5</sup>. For those young people who do go to Court, as the Youth Justice Team in West Lothian is responsible for all young people under the age of 21 years, they complete all Criminal Justice Social Work Reports (CJSWR) for this age group regardless of the court setting. Where a young person under 17.5 years appears before the court for sentencing then the social worker will consider where appropriate remittance to the Children's Hearing for advice. This is also in line with National Outcomes and Standards<sup>6</sup>. Such an option will be noted in terms of community-based disposals for the young person within the CJSWR. This ensures that the appropriate options are fully outlined in the CJSWR.

---

<sup>5</sup> [www.scra.gov.uk/stats](http://www.scra.gov.uk/stats)

<sup>6</sup> <http://www.gov.scot/resource/doc/925/0110144.pdf>

Should the court remit the matter to the Hearing for advice then it will be the same allocated social worker who attends any subsequent Hearings to ensure the process is followed through in terms of consistency and continuity for the young person. This also allows the Children's Hearing to make an informed decision for the court. Should a young person (under 18 years) be remitted back to the Children's Hearing for disposal by the court then the same allocated social worker will work with the young person and their family, should a CSO be imposed.

According to practitioners, such a streamlined process ensures that young people have a consistent approach and develop appropriate and effective working relationships with their social worker to address specific risk and need both short and long-term.

## Court Support

Supporting young people to attend court; to understand the process and its outcomes; and to try and prevent future court appearances is an important aspect of the WSA that does not occur in all Scottish Courts. As young people over the age of 18 also struggle to understand the adult justice system, and as stated earlier, many have problems with speech. Language and communication needs (SLCNs), and their brain not being fully developed, it is just as important that they receive support when appearing at court.

The aim of supporting young people at court is to ensure their understanding of the process and the potential consequences of their non-compliance. This is to support them to attend all pre-court appointments and all future court appearances, and therefore reduce the number of breaches of bail and remands for these breaches. Too many young people under 21 are currently in HMYOI Polmont through breaching bail; one day in January 2017, 73% of young people (95 out of 130) under age 21 on remand were there due to bail aggravation.

In West Lothian there is a streamlined process for all young people under the age of 21 years who are due to appear in court. A Criminal Justice Assistant (CJA) is present in court each day and prior to the court sitting each morning the CJA will be provided with the names of all young people under 21 years who are due to appear before the court. This includes young people appearing from the community and police custody.

All young people under 21 years who are in police custody will be seen by a support worker prior to their appearance in court to assess their well-being, explain the court process and if

necessary assist young people through the court process so that they are fully aware of proceedings.

Where young people are allocated to or known to other local authorities then the relevant agencies will be notified accordingly that the young person is appearing in court. This ensures that young people receive on-going support where appropriate.

Where young people not appearing from custody require assistance they will be given this from a CJA who will direct them to the Youth Justice Team where appropriate, should further guidance and support be necessary. A support worker will be allocated to the young person in order to provide the necessary support, intervention and guidance both short and long-term.

Youth Justice is also responsible for bail supervision and bail assessments for all young people under 21 years. Where appropriate support workers will be notified in advance by the PF/Solicitor where bail is likely to be refused to allow for the appropriate holistic assessments in order to permit the court to make an informed decision.

Where a young person is released from court and subject to bail supervision then a support worker will be allocated to monitor bail and provide them with support and guidance leading up to the next scheduled court appearance.

This not only allows young people to receive the necessary support and intervention at a critical point, but reduces the use of remand and custody where appropriate. This also allows the court to be made aware of any significant progress during the bail period, which can often determine the eventual outcome of the court disposal.

## Alternatives to secure care and custody

Scottish Government policy highlights that [alternatives to secure care and custody](#) should be used for young people wherever possible. There may be occasions however, when this is not appropriate due to the risk they present to themselves or others. Evidence suggests that for the majority of young people, community based services are more effective (Scottish Government, 2011b) in reducing offending behaviour and having more positive outcomes for young people than being removed from their families and communities, losing employment or existing accommodation (Sapouna et al, 2015). Why this is important for young people up

to age 18 but not beyond has not been discussed; from what we know regarding young people's development and experiences, it is just as important to retain young people aged 18-21 within their communities wherever possible.

Within West Lothian, the Youth Justice Team is responsible for all young people under 21 subject to Community Payback Orders/Supervised Release Orders and where appropriate Statutory Licence. They are also responsible for all young people under 18 years in the Children's Hearing System. Working in this way ensures consistency for the young people and also more success in completing orders due to the childcare ethos of the youth justice team in supporting young people to comply.

Where the Children's Reporter requests reports in relation to offending behaviour then these will be completed by the Youth Justice Team. This is in line with GIRFEC and the Scottish Government Youth Justice Strategy (Scottish Government, 2015). In West Lothian this ensures a collaborative and integrated partnership approach to reducing re-offending in line with West Lothian WSA, Reducing Re-offending and the Youth Justice Strategy.

Where young people are at risk of being placed in secure care, social workers will carry out appropriate assessments for the imposition of a Movement Restriction Condition as part of Intensive Support and Monitoring (Simpson et al, 2016). Such restrictions will form an integral part of a Child's Plan in conjunction with the appropriate supports and intervention across the involved agencies to ensure a robust approach. This also ensures a consistent approach for young people and their families, whilst balancing risk and need.

## Risk assessment and management

Whilst the principles and process of assessing and managing the risk of serious harm should be consistently applied in every case, the nature of risk management arrangements that will be put in place will depend on whether a child/young person is being managed under child care or criminal justice legislation. In both cases, practice should be governed and directed by a number of key practice frameworks, namely GIRFEC and [The Framework for Risk Assessment, Management and Evaluation \(FRAME\), \(2014\)](#).

Within West Lothian, staff in the Youth Justice Team are trained in specific areas of risk assessment and risk management. This includes risk assessment frameworks utilised for under 21 years, LSCMI, SA07, SARA (Spousal Assault Risk Assessment), and for young

people under 18 years, ASSET and AIM2. Such risk assessments are utilised both in the Criminal Justice and Children's Hearing System.

Such diversity and approaches for all under 21 year olds ensures that staff members have the appropriate knowledge, training and experience in risk assessment across age and stage of development to make professional and informed decisions around risk and need. This also assists in the transitions between the Children's Hearing and Criminal Justice System as many young people display difficulty in such transitions in terms of age and stage of development, as stated earlier.

Such risk assessments allow staff to apply a holistic level of case management to the perceived level of risk and need for young people, to reduce risk of re-offending and risk of harm to self and others.

## Reintegration

*"Young people need support to transition effectively from the community to secure care or custody and when returning to communities after periods of being accommodated or sentenced"* (Scottish Government, 2015, p.16).

The overall aim of reintegration and transition support is to ensure that vulnerable young people, who have experience of secure care or custody, receive appropriate support when returning to the community. This needs to be extended to all young people up to the age of 21 to ensure their transition is as smooth as possible and they are receiving the help and support they need to remain within their communities<sup>7</sup>.

The West Lothian Youth Justice Team have a consistent approach to all young people placed in secure care and custody. Where a young person is placed in secure care the allocated social worker will be the responsible person for assessment, planning, reviewing and re-integration. The necessary initial reviews are arranged for young people to ensure appropriate information sharing, single planning and robust support and intervention.

Close liaison takes place with the Children's Reporter and receiving establishment to ensure that young people receive the appropriate level of support and intervention. At this point exit

---

<sup>7</sup> For more information see the reintegration's practice guide:  
<http://www.cycj.org.uk/resource/section-6-reintegration-and-transitions/>

strategies are considered and what level of intervention will be required both short and long-term to prevent them returning to secure care or custody.

Young people aged 16-21 years who are placed on remand or sentenced to custody are allocated a support worker in terms of voluntary throughcare. This involves liaison with the receiving establishment to ensure that young people's needs are addressed and any concerns highlighted at the point of admission, as well as attendance at their initial custody review.

Internal reviews are also carried out to ensure that supports and intervention are in place for young people from relevant partner agencies. Where a young person is aged 16-21 (subject to a Community Payback Order) and placed on remand or sentenced to a period in custody then the allocated social worker will remain involved should the Order continue upon transition to the community.

## 4. Discussion

As can be seen, child development theories demonstrate the need to extend the WSA to young people up to age 21 as a minimum, and the practice example of West Lothian shows that it can be done in practice. How effective this is, is difficult to assess. However, what extending the approach does, as well as supporting more young people in an age and stage appropriate way, is to meet the requirements of the UNCRC and Scottish Government legislation through the Children and Young People (Scotland) Act 2014. How this is done in practice however, will be different in each local authority.

As young people do not fully develop in terms of maturation until their mid-20s, having the systems and processes in place that consider age and stage of development and also offer appropriate support when required has been shown to work as the practice in West Lothian illustrates. This would also be in line with other European countries, like Germany, who treat all young people under age 21 as juveniles (Prior et al, 2011). Through a targeted approach, all young people receive the necessary support and intervention at a critical point where this is most required. This also ensures that resources are responsive both in terms of risk and need and developmental stage. Extending this to 21 or to younger adults under age 26 may show more effective results in reducing re-offending and achieve positive outcomes for young people.

From the examples of practice illustrated in West Lothian the approach to working with all young people under 21 years has been achieved through the review and re-structuring of service provision across the Criminal and Youth Justice Service. The WSA is firmly embedded within the Reducing Re-offending Strategy and West Lothian Youth Justice Development Plan and strives to sustain a collaborative and partnership approach to meet the risk and needs of young people who offend and to improve positive outcomes and life chances. Being co-located has helped in relation to partnership working but is not essential to the extension of the approach.

As stated throughout the paper, there are however issues in relation to extending some aspects of the approach. There would need to be a change in policy and legislation to extend EEI to those young people aged 18 and over. The benefits of this would be to reduce the numbers referred to the PF, reduce the number appearing in court, and that age appropriate, timely interventions are offered to reduce the risk of reoffending.

Another aspect of the approach that would need a legislative change for the age range to be extended would be that of the Children's Hearing System. Extending the age range would allow more young people to be kept within a child care system, to ensure their needs and risk were being met in a child-centred way, as opposed to them appearing in an adult court. As well as being in the best interest of the child, this would also go some way to meeting UNCRC requirements of keeping children out of adult processes.

Some of the success from the practice example in West Lothian is due to the youth justice team working with young people up to age 21. This allows the team to straddle both child and adult systems, whilst offering the young people the support and help they need to navigate their way through whichever system they find themselves in. This practice change could be quite straightforward for many local authorities to achieve through the re-allocation of staff. There would however need to be a youth justice team for this to be effective, which currently will pose an issue for some authorities who have recently disbanded there's.

The evidence presents a powerful case for extending the WSA to age 21. The young people themselves would benefit from being supported by child care professionals who understand their risk and needs; there is a higher chance that reoffending would be reduced; young people would be kept out of adult systems as far as possible, or supported whilst in them to reduce non appearances at court and non-engagement with services/Orders. This in turn,

would reduce the number of over 21s entering into the adult justice system. The question therefore should not be why would we extend the WSA to 21, but rather, why would we not?

## 5. References

- Ainsworth, M., Blehar, M., Waters, E., and Wall, S. (1978) Patterns of attachment: A psychological study of the strange situation. Erlbaum: Hillsdale, NJ.
- Bostock, L (2004) Promoting resilience in fostered children and young people; SCIE
- Bowlby, J. (1969). Attachment and loss. Vol. I: Attachment. London: Penguin Books, 1978.
- Dyer, F. (2016) Young People and Court in Scotland, Centre for Youth and Criminal Justice, Glasgow CYCJ
- Fox, J (2010) Building Resilience. Child Centred Practice, Pangbourne
- Hassett, A. (2003) Adolescent Brain Development, Physiological Wellbeing and Mental Health [www.camhs.org/](http://www.camhs.org/)
- Jacobson, J Bhardwa, B, Gyateng, Hunter, G and Hough, M (2010) Punishing Disadvantage. London: Prison Reform Trust.
- McAra, L. and McVie, S. (2010). 'Youth Crime and Justice: Key Messages from the Edinburgh Study of Youth Transitions and Crime'. *Criminology and Criminal Justice*, 10(2), 179-209
- Moretti, M and Peled, M (2004) Adolescent-parent attachment: Bonds that support healthy development; Paediatr Child Health. 2004 Oct; 9(8): 551–555.
- Mulvey, E. Steinberg et al (2004) 'Theory and Research on Desistance from Antisocial Activity among Serious Adolescent Offenders' in *Youth Violence and Juvenile Justice* 2(3) 113-236
- Murray, R (2012) Children and Young People in Custody 2011-12: an analysis of the experiences of 15-18 year-olds in prison. London: HMIP.
- Murray, K., McGuinness, P., Burman, M., McVie, S. (2015) *Evaluation of the Whole System Approach to Young People who Offend in Scotland*, Scottish Government: Edinburgh.
- National Institute of Mental Health (2011) 'The Teen Brain: Still Under Construction'; Department of Health and Human Science, London.
- Prior, D. Farrow, K. Hughes, N. Kelly, G. Manders, G. White, S. Wilkinson, B (2011) 'Maturity, young adults and criminal justice: A literature Review. University of Birmingham.
- Risk Management Authority (2011) *Framework for Risk Assessment, Management and Evaluation*. Paisley: Risk Management Authority

Sapouna, M., Bisset, C., Conlong, A. (2011) What Works to Reduce Reoffending: A Summary of the Evidence, Justice Analytical Services, Scottish Government  
[www.gov.scot/resource/0038/00385880.pdf](http://www.gov.scot/resource/0038/00385880.pdf)

Scottish Government (2011a), Diversion from Prosecution Toolkit-Diverting Young People from Prosecution, Young People Who Offend: Managing High Risk and Transitions Edinburgh

Scottish Government. (June 2011b). *Alternatives to Secure Care and Custody Guidance for Local Authorities, Community Planning Partnerships and Service Providers*. Edinburgh: Scottish Government

Scottish Government, 2015; 'Preventing Offending; Getting it right for children and young people; Scottish Government, Edinburgh

Sebastian, C. Burnett, S. And Blakemore, S. (2009) The Neuroscience of Social Cognition in Teenagers: Implications for Inclusion in Society.' Foresight Mental Capital and Mental Wellbeing. London: Government Office for Science

Shemmings, D (2011) Indicators of disorganised attachment in children. Community Care

Simpson, S & Dyer, F (2016) Movement Restriction Conditions (MRCs) and Youth Justice In Scotland: Are we there yet? CYCJ; Glasgow

Snow, P.C., Sanger, D.D., 2011, Listening to adolescents with speech, language and communication needs who are in contact with the youth justice system, in Listening to Children and Young People with Speech, Language and Communication Needs, eds Sue Roulstone and Sharynn McLeod, J&R Press, UK, pp. 111-120.

United Nations (1989) United Nations Convention on the Rights of the Child. New York, United States.

Vaswani, N. (2014). *Speech, language and communication difficulties*. Glasgow: Centre for Youth and Criminal Justice. <http://www.cycj.org.uk/wp-content/uploads/2014/10/SLCN-report.pdf>

Weaver, B (2015) Offending and Desistance: The importance of social relations. International Series on Desistance and Rehabilitation.