



# Problem-solving courts in the West Midlands:

## A feasibility study

---

### Summary

This study explores the feasibility of developing problem-solving courts in the West Midlands, especially problem-solving courts for both court-involved children and young people and for young adults.

### Findings

- There is significant evidence to suggest that the application of the problem-solving court model to these court-involved children and young people or, separately, young adults could lead to improved outcomes.
- Specifically, the emphasis that problem-solving courts place on procedurally fair judicial monitoring (the regular review of the progress of individuals on community sentences by a trained judge) is likely to promote better compliance amongst both groups. Moreover, the complex nature of the individuals within these two groups makes them especially amenable to the individualised assessments and multi-agency, integrated treatment plans that are central to problem-solving courts. It is also likely that, for both groups, the enhanced monitoring and supervision implied by the problem-solving court model are best applied to those individuals at risk of custodial sentences, and effort should be made to avoid 'over-dosing' lower risk individuals.
- Our assessment of the 'demand' for problem-solving courts for these two groups suggests that there are approximately 588 cases appropriate for a youth problem solving court in 2020 (around 11 cases per week). There were approximately 1495 cases appropriate for a young adult problem-solving court (around 29 cases per week). However, due to the limitations of the data, we are unable, for example, to specifically narrow this pool down further to only those individuals who may, for example, be at risk of custody and therefore especially amenable to problem-solving court approaches.
- Our discussions with practitioners strongly indicated enthusiasm for the trialling of problem-solving court models in the West Midlands, including for young people and young adults. In particular, practitioners saw PSCs as a way of better integrating existing service provision for young people and young adults and were strongly supportive of the potential that PSCs offer to enhance the perceived fairness of the court process for these groups.
- However, there was also strong agreement that the most feasible approach, especially given the operational challenges in the justice system at present, was to pilot one model in the region first. In addition, practitioners repeatedly emphasised that taking forward any PSC pilot must have full approval of the senior judiciary, including the Senior Presiding Judge (SPJ).
- There was also shared recognition that PSC pilots should not in any way undercut the commitment in the region to divert as many young people and young adults away from prosecution as possible. Moreover, practitioners also identified additional improvements they would like to see in how criminal courts process, treat and provide information to court-involved young people and young adults more widely. These improvements were seen as especially crucial for building trust with Black, Asian and other minority ethnic court-involved individuals, as well as those with care-experience, all of whom are over-represented in the justice system.

## Recommendations

We suggest that the following key steps could be taken to grow PSC approaches in the West Midlands:

### Build the case for problem-solving courts in the West Midlands

- 1. If successful, implement the Government problem-solving court first:** If the West Midlands' application to become one of the Government's pilots is successful, the additional resources and national and judicial buy-in that these pilots will have make it desirable to develop a regional implementation plan that allows time for the Government pilot to be embedded first. As the benefits from the pilot are realised, stakeholders are likely to be more favourable to trialling other problem-solving courts.
- 2. Prioritise engagement with the judiciary:** Many practitioners we spoke with were keen to impress on us the importance of engaging with judges and magistrates (local and central) as soon as possible. It is crucial that all future discussions about both the Government pilot (if West Midlands is successful) and the wider potential deployment of problem-solving approaches with young people and/or young adults involve them.
- 3. Share learning from the Birmingham and Solihull FDAC with a wider audience:** Whilst FDAC is a family justice system initiative, there is still much to learn from its implementation and delivery when developing criminal justice PSCs. FDACs share many similar characteristics, including; review hearings, enhanced agency collaboration and an emphasis on procedural fairness. There may also be some cross over as many family judges also sit in the youth court.
- 4. Build local support for problem-solving for young people and young adults by increasing stakeholder engagement:** We recommend developing existing local understanding and support for problem-solving courts by (i) having them as a standing agenda item at the Local Criminal Justice Board (LCJB) meeting; (ii) collaborating with young people and young adults, to better understand their experience of court, and use their suggestions for change, to add legitimacy to the proposed pilots; (iii) convening a young adult working group (with representatives from probation and other relevant agencies) to agree shared actions to address the distinct needs of young adults, including developing the prototype of a PSC model for them.
- 5. Clarify target population for the proposed courts:** From our discussions, there was broad support for targeting young people or young adults at the cusp of custody. Having a specific target group is important to ensuring a pilot has a focus, and promotes an evidence-led approach that helps to avoid net-widening (drawing more people further into the justice system than necessary) and 'over-dosing' (where overly intensive sentence conditions are imposed for low-risk individuals, this can worsen outcomes).

### Wider recommendations for improvement

- 6. Undertake a review of cases that have appeared before the court but were suitable for diversion:** Diversion has positively reduced the number of young people coming to court. However, practitioners raised concerns that there are still some incidences where young people are missing out on diversion opportunities and are appearing at court. We suggest undertaking a short local study to better understand how and why some young people are appearing at court unnecessarily.
- 7. Enhance court and out-of-court procedures:** We heard a number of suggestions to improve the overall justice experience of children and young adults in the West Midlands, including improving the procedural fairness of court proceedings; in-court services, such as advice services, to provide additional support and guidance to defendants and their families during and after the hearing; better provision of specialist services for marginalised groups, such as BAME and care-experienced individuals, who are over-represented in the justice system.

## Background and scope of the project

Problem-solving courts (PSCs) are a diverse family of court models, which combine a multi-agency approach to supervision and intervention with regular judicial progress reviews which hold individuals and agencies to account. For many years, the Office of West Midlands Police and Crime Commissioner (PCC) has been interested in exploring how PSCs could benefit court users in their region. They have a strong track record of supporting and developing innovations locally and currently contribute towards a Family Drug and Alcohol Court (FDAC), a PSC within the family courts.

As set out in their Police and Crime Plan 2021-2025,<sup>1</sup> they are committed to not only continuing to support the wider use of FDACs but also have ambitions to develop PSC initiatives within criminal justice. West Midlands PCC are seeking to establish a PSC for women (as part of the Ministry of Justice pilots) and are exploring the possibility of PSCs for children and young people, and for young adults. To that end, the Barrow Cadbury Trust, as part of its Transition to Adulthood (T2A) initiative<sup>2</sup> and due to its historic links to the West Midlands, commissioned a study from the Centre for Justice Innovation<sup>3</sup> to explore the feasibility of PSCs for these groups.

Specifically, this feasibility study aims to provide:

- An analysis of the evidence base for problem-solving courts and its applicability to children and young people and, separately, to young adults within the criminal courts;
- An assessment of the potential demand for these PSCs among the West-Midlands criminal court population and existing local service provision for young adults and children and young people;
- A better understanding of the interest and appetite for PSCs among practitioners in the West-Midlands both generally and specifically for young adults and children and young people.

This feasibility study took place between June and November 2021. The project plan was developed in collaboration with the West Midlands PCC, and included the following activities:

- **Evidence gathering:** Summarising the evidence and practice base on the use of problem-solving court approaches with young adults (18-25) and with children and young people (under 18), internationally and in the UK (Section 1);
- **Assessing the demand for a problem-solving court:** Analysis of local data (section 2);
- **Understanding practitioner views:** Meeting with 18 practitioners, with representatives including; Her Majesty's Courts and Tribunals Service (HMCTS), the Probation Service (PS), the Youth Offending Service (YOS), West Midlands Police, the OPCC and voluntary sector agencies who support children and young adults locally to understand the interest and appetite for PSCs in the West-Midlands (section 3);
- **Making recommendations for change** (sections 4).

We did not speak with magistrates or judges during the course of this project as the process to secure the necessary permissions to do this did not fit within this project's short timeframe. An online survey was developed for YOT officers to pass on to the young people they work with, however, we received only one response. Attempts to convene a meeting with the Youth Commissioners were unsuccessful. Any future plan to develop PSCs should include these groups as a priority.

## Section 1: Evidence gathering

### 1.1 The evidence on problem-solving courts

Generally operating out of existing courts, problem-solving courts (PSCs) represent a diverse family of court models, albeit with shared characteristics. PSCs can be found in adult criminal justice, youth justice and family justice settings. Their common features are that they:

1. Specialise in a specific set of issues such as substance misuse or domestic abuse or around a specific target group, such as women at risk of custody;
2. Deploy a multi-agency team/partnership to provide intervention and supervision;
3. Integrate intervention and supervision with a court process that holds individuals and agencies to account through regular reviews in front of the same judge (a technique known as judicial monitoring);
4. Endeavour to create a procedurally fair environment;
5. Focus on improving outcomes.<sup>4</sup>

In criminal justice settings, problem-solving courts predominantly use multi-agency teams/partnerships to deliver community supervision and support packages tailored to each individual's needs, holding individuals and agencies to account through regular monitoring by a judge.

There is now considerable evidence regarding the impact of problem-solving courts on a variety of outcomes. However, much of the evidence base is international due to the limited number of problem-solving courts in the UK. In this section, we only discuss those models where we are aware of existing UK practice:

- **Substance misuse courts:** The most common, and commonly researched, form of problem-solving court are substance misuse courts (also known as the adult drug court). There is a robust and extensive international evidence base which indicates that, when properly implemented, adult drug courts are effective at reducing reoffending and drug and alcohol misuse.<sup>5</sup> In England and Wales, the use of judicial monitoring was incorporated into standard community sentencing practice, whereby the Drug Rehabilitation Requirement (DRR) and the Alcohol Treatment Requirement (ATR) include the option of court reviews (though its deployment is restricted to certain circumstances, and the delivery of these reviews do not accord with best practice.) In Scotland, there is a dedicated substance misuse court in Glasgow (a similar court in Fife was closed in 2013). A 2006 evaluation noted that the main strengths of the Scottish pilots were “the ‘fast-tracking’ of offenders, the trained and dedicated team with regular contact with participants, and the system of pre-court review meetings and reviews.”<sup>6</sup> In Northern Ireland, initial findings from the Belfast Substance Misuse Court, which opened in 2018, were positive with more than half of the participants showing significant reductions in drug and alcohol use and re-offending, and significant increases in self-efficacy, locus of control and well-being.<sup>7</sup> The Ministry of Justice intends to create new substance misuse courts as part of its new pilot programme.
- **Domestic abuse courts:** Unlike other problem-solving models, domestic abuse courts do not only focus on perpetrator outcomes - they also strive to increase the number of domestic abuse convictions by encouraging early guilty pleas and through a more procedurally fair process, while also, importantly, seeking to keep victims safe.<sup>8</sup> The international evidence on the impact of these courts on outcomes for victims, such as victim safety and satisfaction,<sup>9</sup> is good, and there is promising evidence on their ability to reduce the frequency and seriousness of a perpetrator re-offending.<sup>10</sup> The Ministry of Justice intends to create a problem-solving domestic abuse court as part of its new pilot programme.
- **Women's problem-solving courts:** Based on the evidence that women who offend have distinct needs and benefit from trauma-informed and gender-specific approaches,<sup>11</sup> there is a strong theory of change for a specialised problem-solving approach for women at risk of custody.<sup>12</sup> Manchester women's court has been recognised for the impressive level of multi-agency commitment at the outset of the project, describing it as a “gold standard”,<sup>13</sup> while Aberdeen's Problem-Solving Approach, which is targeted both at young adult men and women with complex needs, shows evidence of increased compliance. An early-stage review of the court noted the importance of the Women's Centre in the delivery of the court, both during clients' engagement and as a provider of after-care.<sup>14</sup> The Ministry of Justice intends to create a problem-solving court for women as part of its new pilot programme, for which the West-Midlands PCC, in collaboration with

HMCTS and probation, and with support from a range of local agencies, has submitted an Expression of Interest.

- **Family Drug and Alcohol Court (FDAC):** Family Drug and Alcohol Court (called family treatment courts in the USA) were first developed in the US family justice system, and seek to address parental substance misuse in families who are at risk of having the children removed. Evidence from a number of studies conducted in the USA suggests that they produce better outcomes than traditional court models in terms of access to drug treatment, parental substance misuse, and family reunification.<sup>15</sup> The first Family Drug and Alcohol Court (FDAC) was launched in the UK in 2008. The 2011 study of this FDAC pilot found promising evidence that it reduced parental substance misuse and increased stable family reunification by the end of proceedings.<sup>16</sup> A second study of the FDAC pilot (2014) confirmed the early results and found evidence of longer term impact one year after the end of proceedings<sup>17</sup>, and a follow up study in 2016 confirmed the positive substance misuse cessation and stable reunification results from the previous two studies, demonstrating strong evidence for the FDAC model.<sup>18</sup> There are now 14 FDAC specialist teams, servicing 34 local authorities and 21 family courts in England (including three teams in the West Midlands).

There is also now significant research on why problem-solving courts work. In general, this research highlights four factors:

- **Procedural fairness:** Procedural fairness refers to the strong evidence<sup>19</sup> indicating that individuals' perceptions of being treated fairly during the court process is an important influence on their future behaviour and compliance with court orders. <sup>20</sup> In practice, problem-solving courts have been shown to deliver greater procedural fairness through judicial monitoring, the process by which individuals are regularly brought back in front of the same judge to discuss progress and future challenges and opportunities for change.
- **Evidence-based deterrence:** There is consistent evidence that perception of the severe consequences of failure to comply (a concept sometimes known as legal leverage) can be an important motivating factor in compliance. In practice, this is often delivered by positioning problem-solving courts as explicit alternatives to imprisonment (in criminal justice settings) or as the alternative to child removal in public family law.<sup>21</sup>
- **Risk, need and responsivity:** The evidence indicates that problem-solving approaches should ensure the principles of risk, need and responsivity (RNR) are applied equally. RNR provides an empirical foundation on who should be treated, what should be treated (needs that specifically drive behaviour identified using empirically validated assessment tools, rather than secondary needs that are not empirically linked to that behaviour), and how treatment should be administered. <sup>22</sup> In the context of problem-solving court, RNR emphasises the need to develop customised sentence plans which respond to the individual circumstances of the individual, targeting the issues which are driving their behaviour, as well as avoiding "overdosing" lower-risk individuals with complex and intensive interventions.
- **Integrated intervention and supervision:** The evidence indicates that effective collaboration between agencies ensures service users have co-ordinated access to the necessary treatment and support services, with clear, understandable treatment plans and their goals and the rules for compliance clarified, which aids service user engagement in their treatment plans.

## 1.2 Young adults in the justice system

Young adulthood, though difficult to categorise definitively due to variation in individuals' maturity, is generally acknowledged to refer to young people from 18 to approximately 25 years old. There are a disproportionate number of young adults in our prison and probation populations. Young adults have high re-offending rates: 75% of young adults who are released from prison are reconvicted within two years and those serving community sentences have the highest breach rates of any adult age group.<sup>23</sup> This is a manifestation of what is referred to as "the age-crime curve".<sup>24</sup> Many years of large scale criminological research have observed that, across a wide range of jurisdictions, offending behaviour peaks in the mid-teens before dropping steeply at the onset of young adulthood, then declines more slowly.<sup>25</sup> The reasons for this include brain development in maturation, the prevalence of neuro-disabilities and trauma in the young adult population, and, significantly, that criminal justice system contact itself can significantly undermine young adults' ability to desist from crime as they continue to be impacted by the social and financial consequences of having a criminal record and the

impact of “labelling” on their social identity.<sup>26</sup>

There is a growing consensus that criminal justice responses to the behaviour of young adults should reflect their variable developmental maturity and make allowances for their specific age-related needs.<sup>27</sup> A number of countries across Europe now have distinct sentencing arrangements for young adults which either provide for the application of educational measures which are part of the juvenile system, or include specific sanctions for young adults. A 2012 survey which looked at practice across 35 European jurisdictions identified 20 where this practice was in use, including Scotland, Germany, France, Belgium, Austria, and Portugal.<sup>28</sup> In England and Wales, there have been a number of changes to practice such as the inclusion of maturity as a mitigating factor in adult sentencing decisions since 2011, the Probation Service taking maturity into account in their pre-sentence assessments, and new maturity screening tool for use in prisons and the community to help commissioners target resources and interventions.<sup>29</sup> In England and Wales, Newham Probation Service are trialling a specialist hub for young adults under the supervision of probation, offering support with a range of services including drug and mental health support. Staff will receive training to better understand the distinct needs of young adults.<sup>30</sup>

### **Young adults in the court system**

Despite these changes, there is no specific court process for young adults in England and Wales. This means young adults who are developmentally distinct are treated exactly the same within the English and Welsh court system as older, fully mature adults. Young adults face a number of barriers to understanding the current process within an adult court. It can be difficult to follow, with complex and technical language; intimidating, with an uncomfortably formal setting; and lacking in opportunity for direct engagement. The atmosphere of the courtroom itself has also been found to be significantly related to perceptions of legitimacy: young people who “experienced an atmosphere of confusion and unprofessionalism tended to view the entire justice system as less legitimate” than young people who had a better court experience.<sup>31</sup>

### **Problem-solving approaches for young adults**

We know of only one example in the UK of applying the problem-solving court model to young adults specifically (although young adults invariably pass through other types of problem solving court). This is the Aberdeen problem-solving approach in Scotland. The court has been running since 2015 and provides an alternative approach for both young adult men aged 18-25, and for women with complex needs. The aim of the court is to reduce the use of short-term custody and reduce re-offending by combining an enhanced package of support with mandatory attendance at court review hearings every four weeks to discuss their progress in front of a specially-trained dedicated sheriff. A 2018 review of the model noted that participants reported that receiving support often led to increased motivation to comply and that, given the highly complex nature of the client base, engagement and compliance were moderately good. Professionals were also very positive about the PSA overall – while acknowledging that it was less successful for those who were not at a point where they were ready to change. At the time of the review, emerging outcomes from the scheme suggest reductions in reoffending and improvements in mental health and wellbeing, substance misuse and relationships.<sup>32</sup>

Further to that, our assessment suggests that young adults are likely to specifically benefit from a number of the features of a well-executed problem-solving court model. For example, while the research suggests that procedural fairness matters for everyone, there is particular evidence that it may matter especially for young adults.<sup>33</sup> This may be because younger people are especially attuned to perceptions of unfairness and signs of respect.<sup>34</sup> Empirical research has identified that young peoples’ perception of their sentencer has the largest influence on their views of the overall legitimacy of the justice system, even when controlling for the outcome of their case.<sup>35</sup> As such, there are grounds for thinking that the focus on procedural fairness within the problem-solving court model could improve outcomes for young adults. Moreover, given the complexity of needs that many young adults in the court system have, it is highly likely that they will benefit from intervention and supervision that is integrated, and which provides wrap-around support plans to effectively address individual needs. Lastly, to take advantage of evidence-based deterrence, and to minimise the risk of ‘over-dosing’, we argue it is likely that a young adult problem-solving court should target those court-involved young adults at risk of custody.

## **1.3 Children and young people in the justice system**

As children and young people (under 18 years of age) are still developing, physically and emotionally, they may

be impulsive and fail to understand the consequences of their actions, and they may struggle to communicate effectively. This can lead some young people to offend. For the vast majority of young people, this offending behaviour is a short-term phase. 62% of young people who receive a caution or conviction do not re-offend in the following 12 months.<sup>36</sup> For these reasons, it is imperative that young people who offend are treated differently to adults in the justice system.

There has been an enormous reduction in the numbers of children and young people dealt with by the youth justice system in recent years, with the number of children cautioned or convicted falling 79% between 2007 and 2015.<sup>37</sup> There has been a huge increase in the use of diversion to deal informally with minor offending by young people, which means that those children who do end up in the youth justice system are more vulnerable with complex and challenging needs to address.<sup>38</sup> This is no different in the West Midlands.

Recent research highlighted the extent that abuse and trauma is experienced by young people involved in the criminal justice system in the West Midlands, as well as the systemic failings to identify and meet the needs of these young people.<sup>39</sup> There were more children who had experienced 4 or more types of child abuse than children who had experienced none in the study, demonstrating that the needs of these children are complex and co-occurring, which require effective, collaborative multi-agency support.

Despite the fall in overall numbers of young people in the youth justice system, however, the proportion of Black Asian and Minority Ethnic (BAME)<sup>i</sup> young people offending for the first time rose from 11% to 19% between 2006 and 2016, with re-offending rates for BAME young people rising by the same amount in the same period.<sup>40</sup> Looked after children, in particular, are over-represented in the youth justice system,<sup>41</sup> and other factors that are commonly reported in the background of young people with involvement in the justice system include economic deprivation, poor parental employment, low educational attainment, familial offending, experience of abuse and neglect and substance misuse problems.<sup>42</sup> Additionally, data suggest a high incidence of mental health problems and learning difficulties or disabilities, including challenges with speech and language<sup>43</sup> and significant numbers are defined as being persistently absent or excluded from mainstream education.<sup>44</sup> In the West Midlands, issues of disproportionality, gang involvement, exploitation (particularly of girls) and the trauma of migrant children were highlighted.<sup>45</sup> The youth justice system must evolve in order to respond effectively and proportionately to the complex needs of these young people.

## Youth court

Youth courts in England and Wales are already subject to a range of adjustments intended to make them more suitable for young people. These include:

- Specialist magistrates' court sitting (closed to the public and with reporting restrictions), where all defendants are young people aged 10 to 17 years;
- Professionals with specialist training, including for judges and magistrates and barristers with 'competencies' to work in youth court;
- Emphasis is given to ensuring that young people – and their families or supporters – understand court processes and sentencing decisions. To this end, more direct engagement than is typical in adult court is encouraged between judiciary and young people;
- Less formal courtroom layouts (where possible) that allow parties to be on the same level and young people to sit outside the dock and close to their parents or supporters
- Sentencing in the youth court is intended to focus on the welfare and rehabilitation of the young person and to address underlying factors related to offending; and

---

i Although we have used the acronym 'BAME' for Black, Asian and Minority Ethnic young people and young adults in our report, we recognise the term can be considered problematic, as it arguably flattens different experiences of the justice system and other racialised social systems between individuals of different racial and ethnic backgrounds. We understand that this term does not refer to a homogenous group of people, and where possible we have attempted to disaggregate our findings in regards to specific ethnic backgrounds.

- A multi-agency Youth Offending Service (YOS) that has an important role in informing decision-making by the courts and overseeing subsequent court orders.<sup>46</sup>

Based on these features, the youth court already therefore embodies elements of problem-solving court practice and, given the vast reduction in young people in the youth justice system, there has been a 75% decline in cases coming into the youth court in the last 10 years.

However, there remain significant challenges for youth courts. Today's court-involved young people tend to have more significant welfare and other needs as well as more serious offending profiles than they did a decade ago.<sup>47</sup> Moreover, youth courts and associated agencies have been subject to significant pressures due to court closures and mergers and reductions in funding resulting in difficulties in protecting young people from criminal activity.<sup>48</sup> In 2020, we published the findings of a multi-site research project, jointly undertaken by ourselves and the Institute for Crime and Justice Policy Research (ICPR), Birkbeck, which looked at current practice in the youth court, as well as exploring the potential impact of implementing practices aligned with problem-solving justice in youth court. We observed practice that fell short of what is recommended for the youth court such as long delays, lack of availability of specialist professionals, and, more generally, an overburdened system in which practitioners struggled to deliver the services required of them. As a result, vulnerable young people at court are not always receiving the support and treatment they need.<sup>49</sup> Our research strongly suggested, just as the Carlile, Taylor and Lammy reviews did, that youth courts need to become even more 'problem-solving' to change the outcomes for the vulnerable young people who find themselves there.

### **Problem-solving approaches for young people**

When examining how best to respond to young people involved in the justice system, it's important, firstly, to highlight the extensive evidence that demonstrates that formally processing most young people involved in crime (either through statutory out-of-court disposals or prosecution) is likely to increase their offending, when compared to diverting them away from the system.<sup>50</sup> Therefore, any enhancement of the problem-solving aspects of the youth court should not undermine or reverse the greater use of pre-court measures for young people, and any implementation of the model should carefully examine at which young people it is targeted at, so practitioners can guard against up-tariffing, i.e., cases that previously would have avoided court being actively pushed towards it.

In contrast with adult problem-solving courts, there is limited evidence regarding the effectiveness of specific problem-solving youth court models.<sup>51</sup> The US evidence base for juvenile drug courts does not clearly indicate a positive impact— indeed, a number of studies actively show a harmful effect. However, it's important to note that this is largely due to US practitioners replicating the high intensity adult drug court model (mostly used with opiate using offenders facing significant prison time) and applying it to juveniles with low level offending and substance misuse issues. The back-fire effect of this over-dosing is largely responsible for the worse outcomes found.

However, wider research suggests that particular key features of the problem-solving approach may help courts better address youth offending.<sup>52</sup> First, the evidence demonstrates that accountability is integral when working with young people.<sup>53</sup> Given the role of the judge in problem-solving courts in holding individuals and agencies accountable, this could have a particularly strong impact on compliance and reduced re-offending for young people.<sup>54</sup> Second, it is well established that individualised assessments and integrated treatment plans targeted at young people's specific risk factors works to promote rehabilitation and reintegration.<sup>55</sup> Multi-agency collaboration is crucial to effectively addressing the complex needs of these young people and facilitates better engagement. This model of risk-need-responsivity, or enhanced specialisation, that problem-solving courts deliver is likely to work with young people. Finally, the research on procedural fairness demonstrates its particular saliency for young people.<sup>56</sup> This suggests that it is important for youth courts to develop a better understanding of the court experience from the perspective of court users with a view towards increasing their understanding of and engagement with the court process.

Given the evidence, and the risks associated with over-dosing, we suggest that a problem-solving court approach for young people at risk of custody is worth exploring. This pilot could build on the existing features of the youth court, enhancing them by, for example, deploying judicial monitoring and working to create a more integrated treatment and supervision package, involving wider partnerships than just the YOS, including children services and taking better advantage of available community resources.



## Section 2: Assessing the demand for problem-solving courts in the West Midlands

Using local data,<sup>57</sup> we have tried to assess the 'demand' for a young adult and children and young people problem-solving court amongst the existing court-involved population in the West Midlands.

First, we identified the total population of suspects who fall into our two groups in the West Midlands (and we describe their demographics below).

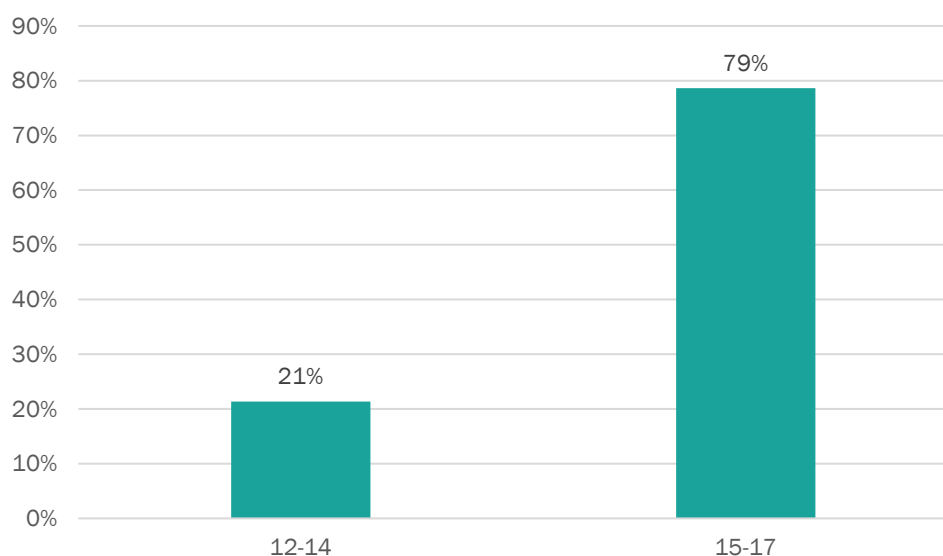
Second, we have, based on the available data, tried to identify the available pool of individuals for whom a problem-solving court may be appropriate.

### The total population of youth and young adult suspects

#### Children and young people suspects aged below 18

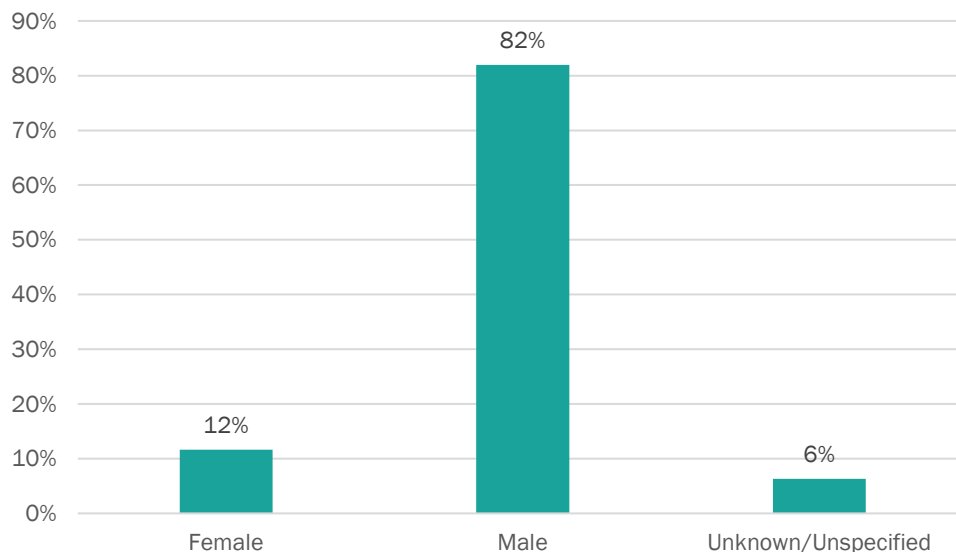
A significant majority of children and young people charged were aged 15-17. Only one in five (21%) were aged 14 or below.

Fig 1. Age of charged suspects under the age of 18



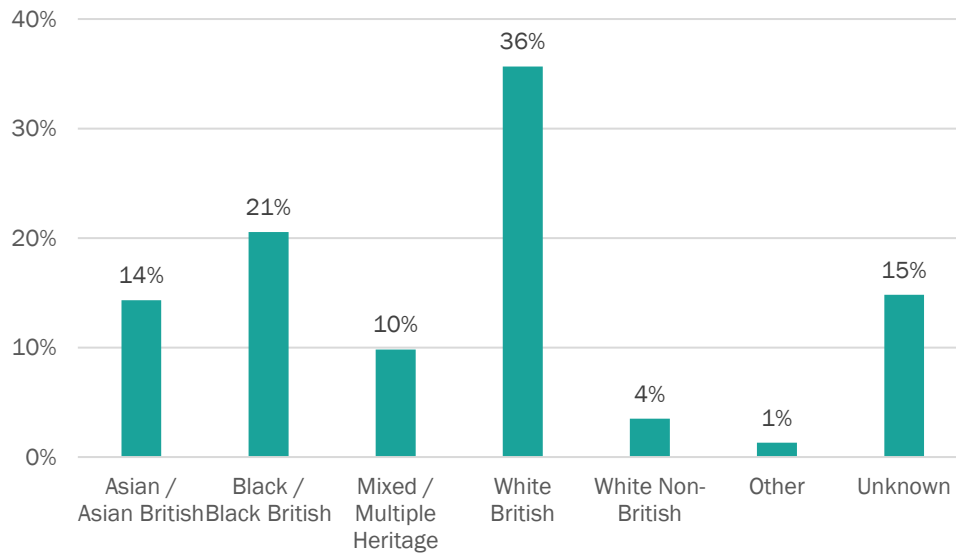
More than four out of five (82%) children and young people charged were identified as male. Only one in eight (12%) were identified as female.

Fig 2. Gender of charged suspects under the age of 18



The most common identified ethnicity of children and young people was White British (36%). However, both White and Asian / Asian British ethnicities were significantly under-represented compared to the general population of the city while Black / Black British and Mixed / Multiple Heritage ethnicities were significantly over-represented.<sup>ii</sup>

Fig 3. Ethnicity of charged suspects under the age of 18

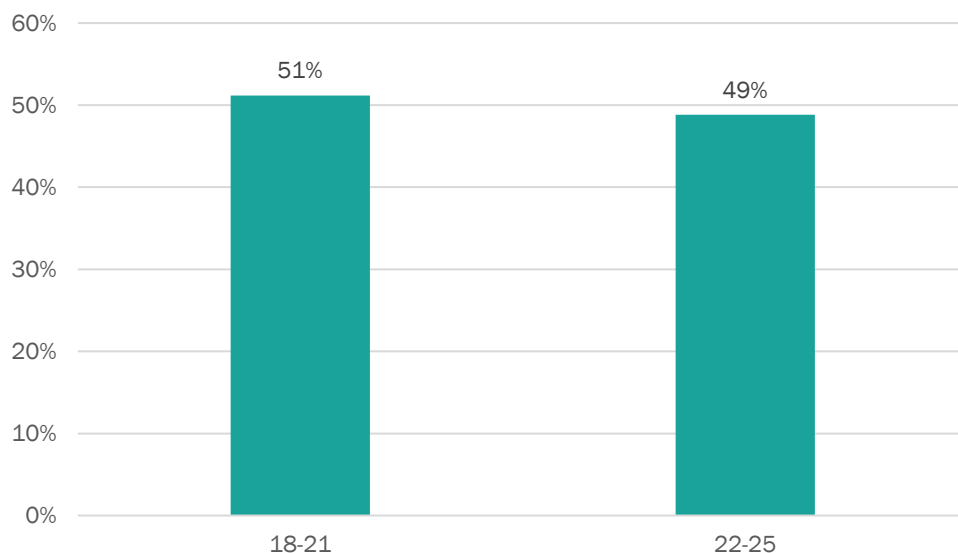


<sup>ii</sup> Comparisons are with 2011 census data.

## Young adult suspects aged 18-25

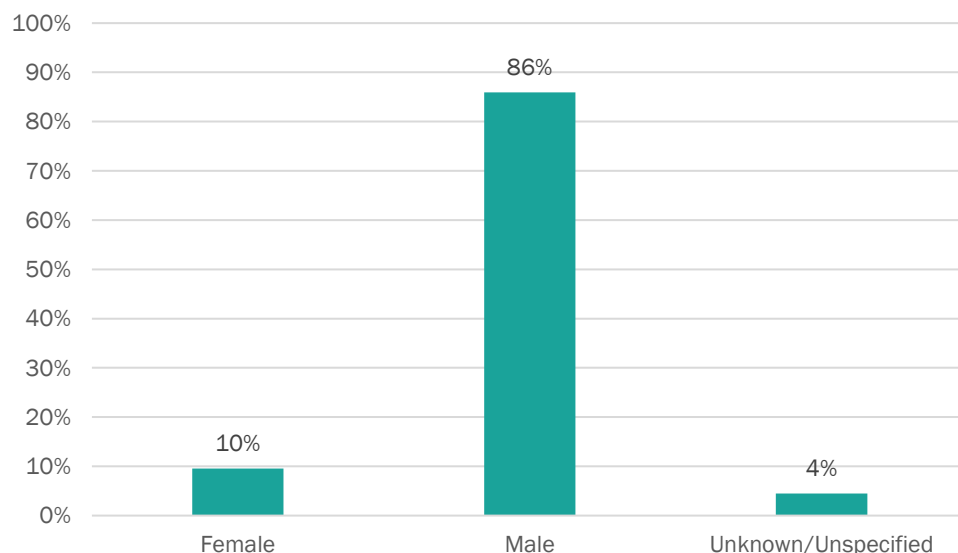
Young adult suspects were roughly evenly split between those in the 18-21 age group and those in the 22-25 age group.

Fig 4. Age of charged suspects aged 18-25



The vast majority (86%) of young adults were identified as male. Only one in 10 (10%) were identified as female.

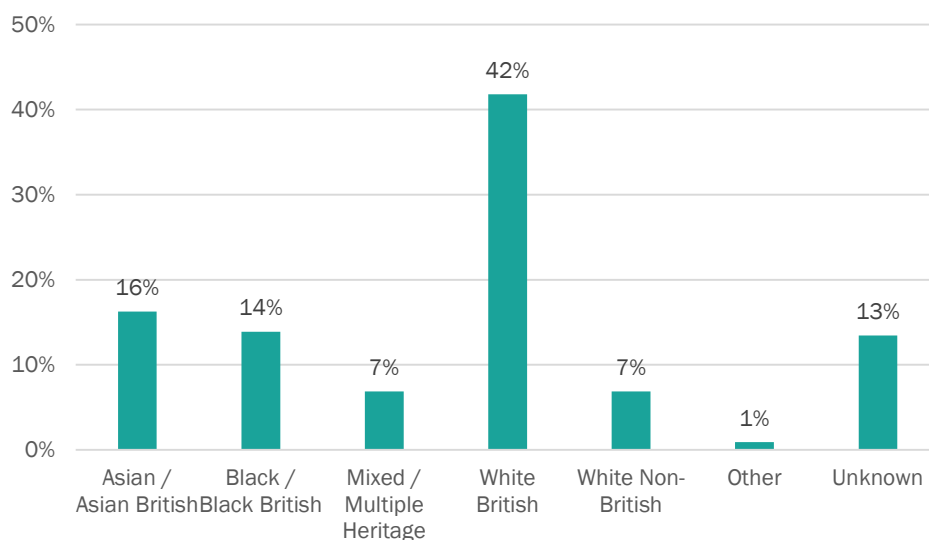
Fig 5. Gender of charged suspects aged 18-25



The most common ethnicity for young adults was White British (42%). However, as with children and young people, young adults from both White and Asian / Asian British ethnicities were significantly under-represented compared to the general population of the city while Black / Black British and Mixed / Multiple Heritage ethnicities were significantly over-represented.<sup>iii</sup>

<sup>iii</sup> Comparisons are with 2011 census data.

Fig 6. Ethnicity of charged suspects aged 18-25



### Assessing demand for problem-solving courts

To estimate the number of PSC appropriate cases, we have begun with a figure for the total number of offences recorded as having Outcome 1 in each of the two age groups (12-17 and 18-25). We have adjusted this figure in two ways.

Firstly, we have sought to filter out those cases where a problem-solving approach would not be appropriate as the severe nature of the offences would likely lead them to be heard in Crown Court. In order to do so, we have filtered out all cases of serious violence and of sexual offences as well as other indictable-only offences (as identified via the Home Office offence descriptions). We have also assumed that 20% of the remaining offences are also unsuitable for problem-solving due to aggravating factors, offending history or other factors.

We have also adjusted our estimate of demand based on an assumption that in some offences where police record Outcome 1, no prosecution will occur. This might be for a range of reasons including CPS reviewing the evidence and feeling that the possibility of successful prosecution is insufficient, CPS referring the case back to police for a diversion or out-of-court disposal, or prosecution collapsing. No data was available on the frequency of this event so, after discussion with stakeholders, we have assumed a non-prosecution rate of 20% of the potentially appropriate cases.

We have then adjusted the remaining number of offences by the average number of offences per case in the sample for that age group to reach a final estimate of PSC appropriate cases.

Based on this modelling, we assume that potential caseloads for problem-solving courts are as follows:

| Age range                             | 12-17      | 18-25       |
|---------------------------------------|------------|-------------|
| Total offences                        | 1795       | 3897        |
| Offence types not appropriate for PSC | 143        | 367         |
| Additional non-appropriate cases      | 330        | 706         |
| Cases not leading to prosecution      | 264        | 565         |
| PSC appropriate offences              | 1057       | 2259        |
| Offences per case                     | 1.51       | 1.80        |
| <b>PSC Appropriate cases</b>          | <b>588</b> | <b>1495</b> |

However, due to the limitations of the data, we are unable, for example, to specifically narrow this pool down further to only those individuals who may, for example, be at risk of custody and therefore especially amenable to problem-solving court approaches.

## Section 3: Understanding practitioner views<sup>iv</sup>

### 1. Cross-agency support for diversion

***Effective diversion pathways are key to ensuring that the right children and young adults are coming to court.***

Nearly all of the practitioners we spoke with linked the changing court cohort for both children and young adults to the increased opportunities available locally to divert people away from the formal criminal justice system. Those appearing at court tend to have committed much more serious offences (such as serious violence and sexual offences, possession of weapons and robbery) that would make them ineligible for diversion schemes. All of the agencies we spoke with were hugely supportive of the commitment to diversion across the West Midlands.

However, some did highlight that there is still work to be done; it was felt by some that there are still cases presenting in the court that should have been dealt with through diversion. At the time of writing this report, we are unaware of the processes that exist locally to deal with cases of this kind.

Concerns were also raised that young people who were being exploited were not being identified early enough in their contact with the criminal justice system. It was reported that offences related to drug supply make you ineligible for a diversion scheme and these criteria fails to take into account that *'many young people involved in drug dealing are being exploited or are involved in county lines'*. It was suggested that being sent to custody will increase their risk of being further exploited and drawn into crime. Failure to identify these young people is an issue that has been raised by YOTs and police across England and Wales during our work supporting youth diversion.

It was also noted, that the Youth Gravity Matrix (the police tool used for decision-making in relation to offences committed by children) limits a practitioner's ability to influence what comes to court. It was also suggested that staff lack the confidence or experience to make professional judgement calls and the matrix, 'can't take nuance etc. into account'. Again, this is an issue that has been raised by other YOTs and police colleagues across England and Wales. The Matrix is currently being reviewed by the National Police Chiefs Council (NPCC) and the Youth Justice Board (YJB).<sup>58</sup> In a recent consultation workshop, we hosted in partnership with the YJB and NPCC, it was discussed that the intention in the updated matrix will be to provide more guidance for police on the appropriate use of professional discretion and how mitigating factors, like exploitation and vulnerability, can impact on the type of outcome a youth can receive.

Practitioners also noted that, *'on average people are diverted up to three times before their arrival in court'*. Another, noted that people who were previously diverted are receiving more serious sentences even if it is their first time at court as their previous offending (which was diverted) is taken into account. It was also highlighted that many individuals (young people, young adults and practitioners) both at court and in diversion schemes, do not fully understand the implications of criminal records. It appears that there is some work to do to ensure that all parties (including practitioners and participants), are aware of the implications on future outcomes when engaging with diversion schemes, as well as the impact of criminal records.

One person noted that Birmingham has a diversion intervention for knife crime, Virtual Decisions,<sup>59</sup> that uses virtual reality to help tackle knife crime with an educational immersive video. They suggested this should be rolled out more widely.

### 2. Improving the identification of needs at court

***Some needs are not being identified early enough, hindering the court's ability to make informed decisions about the young people and young adults before them.***

As mentioned above, the types of offences that young people and young adults are appearing at court for has

---

<sup>iv</sup> As we describe in the evidence section, young people and young adults are distinct groups that go through different processes in the criminal justice system. However, we noted many shared experiences from our discussions and therefore we have not separated the themes according to cohort. However, where practitioners have referred to a particular group, we make this clear.

changed due to the significant gains in diversion. Whilst the offences at court are more serious, so are the needs and difficulties children are experiencing, according to those we spoke to, this includes; neurodiversity, struggles with their mental health, concerns of exploitation and experience of the care system.

Currently, need is identified by way of a Pre-Sentence Report (PSR) which is routinely compiled by the YOT prior to sentencing. Young people are often given time prior to hearings to allow time to engage with the service, as well an adjournment period to allow the YOT worker time to meet with child and family and do a PSR. This increases chances that the child's needs will be identified. There has been a huge push to make these more child-focused, rather than offence-related, though there are still improvements to be made in this area. Where needs are identified, the young person will receive support from the Liaison and Diversion team at court. However, it is important to note that if the offence is more serious and the child is deemed high risk and remanded at initial court appearance, then the YOT is not given an opportunity to have an in-depth meeting with the young person and learn their circumstances and history.

In contrast, although young adults are designated as a priority group for court probation in the region, it was reported that approximately half of cases with a young adult defendant receive a PSR. HMCTS and probation colleagues are keen to improve procedures for identifying young adults attending court who are at risk of custody in order to recommend the completion of a PSR.

In general, despite some improvements to PSRs, it was seen that the needs of these young people and adults are often being missed at court. It was suggested that the Local Authority should contribute before court or as early as possible to ensure practitioners have the relevant background information. One agency recommended the development of a pan West Midlands suitability assessment. This would increase information sharing across agencies to prevent duplication of assessments and reduce burden on services and service user. This may also improve the process for producing same-day PSRs thus preventing any delays to the court process.

### 3. Support for problem-solving approaches

#### **Aspects of problem-solving approaches should be implemented to enhance the court process and community sentences**

All of the stakeholders that we met with spoke positively about the adoption of problem-solving approaches to better address the needs of individuals with complex needs. However, they were keen to highlight that any development of problem-solving must first be raised with the senior judiciary and must have full approval of the Senior Presiding Judge (SPJ). This may be difficult in the current climate of court backlogs, and given that West Midlands PCC, in collaboration with HMCTS and probation, submitted an Expression of Interest to pilot a women's problem-solving court as part of the Government's problem-solving pilot scheme.

It was felt that the demands would be too great on the court to implement more than one problem-solving pilot at any one time. As a result, stakeholders indicated their desire to see some, but not all, aspects of problem-solving courts implemented within existing practice as a way to enhance the court and community supervision processes. All agencies were positive about the impact of having a more procedurally fair court process; ensuring young people and young adults understand the process and their sentence, and of providing suitable post-sentence care and treatment. However, there were mixed feelings about holding in-court review hearings. While the benefits of review hearings for holding individuals, but more importantly agencies, to account was recognised, concerns were raised about needlessly bringing young people back to court, particularly if disruptive to the person's education or employment.

Practitioners emphasised the need to avoid overdosing these young people and young adults with overly complex sentences when light-touch intervention would be most appropriate. However, problem-solving approaches were generally accepted as working well with individuals coming to court who were at the cusp of custody. As outlined in the previous section, certain elements of problem-solving approaches such as procedural fairness, accountability and perceptions of the sentencer are seen as particularly important to young people and young adults at court, and have a huge influence on their overall perception of the legitimacy of the justice system.

One young person who responded to our survey about their experience of court, wrote they could only understand the process, '*...a little*' and, '*When I initially attended court for my sentencing I was not made aware that I needed to attend with a parent so I came with my adult sister. Considering this was first court*

*appearance and I didn't know what to expect I felt like I was treated quite abruptly, which made the experience even more daunting.'* However, they did feel like they were treated fairly, that they felt respected and were given a chance to speak. They suggested that the one thing they would change about the court process would be, *'try not to make it as scary for young people. More child-friendly.'*

Whilst this is only one person's experience, much of what they wrote is in line with previous research undertaken on the experiences of young people and young adults at court. In our recent research into youth court practice, the young people we interviewed had a variable but largely limited understanding of the court process, robbing them of a sense of agency. We heard many reports of not being sure what to expect before they turned up, not being able to follow proceedings as they happened, and even some who left the court still unsure what had happened and why.<sup>60</sup>

In a previous report in which we interviewed young adults about their experience of court, we found that there is no doubt that young adults want and need to understand what is happening when they attend court. Yet almost all those we spoke to, including those who had attended repeatedly, reported difficulties at some – or all – stages, of what can be a confusing and technical process. Problem-solving court hearings are less adversarial; seeking to provide greater clarity on the roles of professionals in the room, as well as the court process. Individuals are given an opportunity to be heard and engage with the court. Stakeholders recognised the importance of enhancing young people and young adults' understanding of the court process and of what is expected of them once they are sentenced.

Currently both cohorts are only returned to court in the case of breach. Holding regular review hearings provides an opportunity for judicial monitoring, a key feature of problem-solving. From our discussions, there were mixed feelings about the benefits of this for these cohorts. It was recognised that these hearings are particularly useful for holding, not just the individual to account, but also the other agencies involved in providing support. The power of getting a good review and some encouragement was also acknowledged with one practitioner stating that in their experience "positive feedback can do wonders." It gives individuals an incentive to make progress if they have an upcoming hearing, and this momentum often continues.

However, it was raised in a number of discussions that bringing young people and young adults back to court for reviews might be very disruptive to education or employment schedules and unnecessarily increases their contact with the justice system thus increasing the chance of anti-social labelling. Stakeholders asked if there were ways to provide updates on progression, and offer encouragement to those on orders, without in person court reviews. Some suggestions offered included probation and YOS workers providing update reports to sentencers, written feedback, such as letters, or even a short video from the magistrate as a form of judicial monitoring.

Stakeholders discussed the idea of further training for court staff and professionals. It was highlighted that any practice development within the court must be trauma-informed, and all staff should be trained on the use of trauma-informed approaches. A key aspect of problem-solving is having a single, consistent judge or bench of magistrates that have a greater knowledge and understanding of the target issue or population that the problem-solving court is focused on. Enhancing the expertise of the magistracy through specialist training focusing on young people and young adults will improve magistrates' understanding of their distinct needs, and this in turn may impact on individual perceptions of the sentencer.

One final problem-solving enhancement that was suggested by multiple stakeholders was to increase the use of deferred sentencing options, which was highlighted in the Government's recent sentencing white paper. Deferred sentencing is used in a number of existing problem-solving initiatives including C2 in St Albans and C3 in Birmingham, to test an individual's motivation to comply. Sentencing could be deferred for 3 to 6 months with the individual required to engage with relevant services. A review hearing would be scheduled after this time to discuss progress and next steps. Those who comply may be eligible for a lesser sentence.

#### **4. Gaps in service provision**

***Access to services is essential to addressing the distinct needs of young people and young adults. It is also an essential aspect of a PSC, without these services a PSC will fail to meet its aim to reduce reoffending.***

Stakeholders acknowledged gaps in the service provision for young people and young adults in the West



Midlands, and specifically a lack of specialist services targeted at these cohorts. Young adults were noted as comprising a large proportion of the probation population. Stakeholders described a cliff edge of support for individuals in the justice system, and particularly at court, when they reach adulthood (at 18) and move from youth justice services to adult. Issues around neurodiversity and care experience were also highlighted as prevalent within these cohorts, as well as having support needs related to housing, employment and mental health. Due to the vulnerability and complex needs of young people attending youth court, specialist court processes and services were considered essential to effective supervision and support. Similarly, given the increasing recognition that young adults in the justice system have distinct needs from children and young people and older adults, practitioners were keen to highlight the need for specialist services and interventions for young adults.

Practitioners noted the importance of what happens after the court process, in the community, and the need to deliver effective community supervision with multi-agency support to effect behaviour change. Some progress has been made in recent years for supporting young adults, with the development of trauma-informed practice, and a specific toolkit for probation practitioners on understanding maturity and its impact on offending.

However, it was noted that more could be done to ensure that a good support package is in place for young adults. One suggestion was to improve the wrap around support for the service user, including involving the young adult's family and wider support network involvement in probation work (as is done in the youth offending service) to provide holistic support and supervision, which is a common feature of problem-solving courts.

In terms of service provision, children and young adults most often receive help with housing and support with education, training and employment (ETE). It was recognised widely that there are gaps in the support available for young people and young adults. This was considered to be particularly salient for looked after children and care leavers, with one person stating that they felt that support is non-existent. These people need wrap-around support but social services are only able to target the most complex cases. This should be a focus going forward. There is also a 'postcode lottery' in regards to service provision, with most services concentrated in Birmingham and a lack of services for those not in that area. For both cohorts there is good availability of drug treatment but a lack of available alcohol treatment in the region.

While young people receive specialist supervision and intervention from their youth offending service. There is no distinct approach for young adults under probation. Stakeholders recommended the establishment of specific interventions and approaches that cater to the distinct needs, experiences and maturity levels of young adults.

A number of suggestions were raised during discussions, including developing specific knife crime interventions for both young people and young adults, domestic abuse interventions, specifically that include familial violence as well as intimate partner violence which include the person's family in the intervention.

## **5. Issues of disproportionality**

***Perceptions of trust and fairness in criminal justice processes must be improved, particularly for BAME and care-experienced people, who are over-represented in the justice system.***

While the numbers of young people and young adults attending court has drastically decreased in recent years, due to the prevalence of diversionary measures, those individuals who do arrive at court have more significant needs than before, and tend to have committed more serious crimes. This is in line with the national evidence on the numbers and needs profile of young people and young adults in the justice system. It was also noted that the cohort of young people at youth court tend to be older, with more between the ages of 15-17 than previously. Violent offending is more prevalent across the region, with particular emphasis on knife-related crime. Due to the seriousness in offending, out of court disposals (OOCs) are not available for these young people, with knife crime in particular having very stringent sentencing guidelines.

Issues of disproportionality in the West Midlands was highlighted in every discussion we had with practitioners, which again reflects the national evidence. There is a disproportionately large proportion of BAME young people in the justice system. A number of possible reasons for this was discussed including that BAME young people may be given less opportunities to be diverted, perhaps due to unwillingness to admit guilt due to a lack trust in the system, or as a result of unconscious bias. Disproportionality was also highlighted in sentencing, with BAME

young people tending to get harsher sentences than their white counterparts. Similarly, a significant proportion of the young people and young adults attending court were noted to have experience of being in care. This is unsurprising given the wider evidence on the over-representation of looked after children and care leavers in the justice system.

It was highlighted that these populations are largely male, with particular over-representation of black boys. Although the evidence is clear on the need for gender-specialist services, this was not raised in our discussions due to the much smaller numbers of women and girls in these populations. One practitioner, working predominantly with black and Asian children, has noticed an increase in the numbers of arrests of BAME young people. They also reported an increase in mental health issues within these groups. Agencies we spoke to felt that more could be done to support these cohorts. Although there has been an increase in the support available for family and home life, clothing and safeguarding issues, there are still not enough resources to support these young people, or specific services for people who are BAME or care experienced. The services exist in the region but they tend to be smaller, local organisations that don't receive the same level of funding as larger, non-specialised services, and therefore can't reach as many people and as a result the impact is smaller.

There has been some funding provided by the Ministry of Justice to tackle disproportionality and to provide specific services for BAME individuals on probation. However, due to a lack of knowledge from probation teams about specialist community services specifically for these cohorts, referrals are not made. More needs to be done to ensure that BAME and care experienced people in the justice system are afforded the same opportunities for diversion, are treated equally at sentencing and are given the necessary specialist supervision and support.

## **6. Lack of joined up approaches for services across the region**

### ***Strong partnerships and a commitment to collaboration among agencies is crucial to a successful problem-solving court.***

Above we have summarised the availability of specific services across the region for young people and young adults, in this section we discuss how the different services do or don't work together.

Agencies, both statutory and voluntary, spoke about their lack of knowledge of what services other agencies provide. One practitioner stated that it was this lack of knowledge, *'which inhibits [our] ability to refer clients for community support, including specific support for BAME service users'*. This is especially evident when, young people and young adults are moved around and end up going to court or custody away from the area that they live. Meaning when they when they return to their home they aren't linked up with services in their area as court and prison staff in other areas don't know what exists elsewhere.

There is work taking place locally to resolve some of these issues; CGL is developing courses and support for prison leavers and the Reese Foundation and Innovation Unit are supporting to raise the level of joint working. Social services and probation have been improving their relationship but it was reported that more needs to be done for better joint working to support care leavers, particularly on how to avoid them having to repeat their traumatic histories to each service they engage with. The pan West Midlands assessment, mentioned in a previous section, may go some way to address this.

Education (schools and colleges), Health and Social Services were highlighted repeatedly by practitioners as agencies that required a more joined up approach when supporting young people and young adults, across the region. This was evident at every point, from prevention, arrest, and pre and post court.

One practitioner described a worrying pattern of exclusions that had come to their attention. Their perception being that students were being accepted to schools in order to get the funding to support them, but if the young person then presents a challenge to the school (fighting, poor behaviour, etc.), rather than working with that young person and their families, in November each year, a number of students are excluded (this is the cut-off date for being able to keep the funding regardless of outcome for the child). It was felt that once excluded these young people could become vulnerable to criminal exploitation.

It was also suggested by a few practitioners that providing better information to sentencers (both in youth court and Magistrates' Court) on the support available locally and using their ability to convene agencies involved in

cases at court could improve multi-agency working.

As covered in the evidence section, some key features of a PSC are; the ability to deploy a multi-agency team/partnership to provide intervention and supervision, and the integration of the intervention and supervision with a court process that holds individuals and agencies to account. It would appear from our discussions with practitioners that the current lack of joined up working could hinder the development of a PSC. However, during our work supporting other PSC initiatives, we have found that often the development of these initiatives creates a space for better collaboration among agencies to take place. The recently submitted EOI demonstrates the ability of agencies in the West Midlands to collaborate effectively and agree on a shared plan.

Most of the feedback in this section is focused on the relationships between local agencies but one person did highlight the lack of a joined-up approach from nationally funded provisions (like the Violence Reduction Unit (VRU)) and local partnerships.

Separate to the need for more inter-agency collaboration, was the issue of accountability and transparency, in both the delivery and funding of services. Some of the agencies we spoke with felt that there was, not enough accountability for agencies who are funded to deliver support to young people and that these organisations should be convened and reviewed to ensure they are being held to account. There was also some uncertainty about how decisions for funding and resources were made and whether the process was fair; *'[it] can seem like those with relationships at higher level receive the funding.'* It was also suggested that current funding processes are better suited to larger organisations as they can demonstrate more significant change; often being smaller in scale and the distinct services provided by grassroots agencies means it is more difficult to demonstrate the impact required from commissioners. It was also suggested that funding did not always follow need and many areas are being neglected. An example was given to illustrate this point; *'the VRU did a fantastic job in mapping the hot spots in Birmingham but the funding resources allocated did not match these areas - better infrastructure is needed.'*

The most common solution provided to solve the lack of joined up services for young people and young adults was the need to agree, *'... a defined goal for all the agencies to work towards'* and for the PCC to monitor organisational progress and their commitment to said goal. It was noted that the PCC has convened the YOS' in different areas to form a Youth Justice Committee and it was suggested that there should be a similar committee formed for young adults. Practitioners did note that it could be difficult to get all agencies to sign up to and deliver on a shared plan, as there was general feeling that everyone is preoccupied with their own organisational priorities. However, it was felt by many that strong local leadership that instilled trust between agencies and shared professional responsibility could achieve this change. Another suggestion was the creation of a directory of services in the region that statutory and voluntary services can refer to.

## 7. Enhancing the court experience of young people and young adults

***While not specific to the development of a PSC, implementing small enhancements to the court process may improve young people's and young adults' understanding of proceedings and their overall experience at court.***

Stakeholders presented a range of suggestions for improving the experiences of young people and young adults with involvement in the justice system, either at court or in the community, including better wrap-around support, greater access to multi-agency integrated treatment and support plans, and enhanced training for magistrates and judges, all of which are key features of a problem-solving approach.

All of the agencies we spoke with acknowledged that many people don't understand the court process or the sentence they've received and don't ask for support. Some suggested this was due to prevalence of unidentified SLT difficulties and young people feeling intimidated by the 'authoritarian' process. The YOT do try and provide help and explain what is happening, including providing leaflets but acknowledge this may not be enough.

Currently, young adults do not get any specialised treatment in court. It was estimated that they are given little time with probation prior to their hearing for initial engagement and to explain potential next steps. To enhance the understanding of young people and young adults are court, practitioners suggested; that court staff should be better at providing a full explanation of everything that is happening and who everyone is. They were not sure, due to the court backlogs, that this is being done by anyone other than solicitors (meaning those

unrepresented will miss out).

Other ideas were raised for enhancing the court environment and improve people's understanding and experience of the court process that didn't fall specifically within the remit of a problem-solving court. This included bringing in other services to provide support at court, such as a 'departure lounge' type service to support young adults being released from the court (on time served etc.) that utilises a trained volunteer scheme. For young people, a specific 'Citizen's Advice' service or 'a support line that the young people could call, which could provide tools for walking them through the court process in advance once they receive the summons.' If implemented, these enhancements would certainly support the improvement of procedural fairness at court, as such, these additional supports should be available to every person attending court, regardless of their eligibility for a problem-solving court. Moreover, while they would improve the court process for young people and young adults, they would fail to address the complex and challenging issues that lead some people further into the justice system.

## Section 4: Conclusions and recommendations

### Conclusions

As we highlight in our evidence section, problem-solving court initiatives have existed for some time in other regions across the UK, but the recent Government announcement, and subsequent EOI process to pilot 5 PSCs in England and Wales, has raised the profile of PSCs like never before. In our conversations with practitioners, there was strong local support for problem-solving courts, which was apparent across all of the agencies and organisations we spoke with. This interest in the West Midlands is especially underlined by both the experience of the West Midlands in developing PSCs, like FDAC, but also by the PCC's commitment to them, as demonstrated both by its inclusion in the current in the Police and Crime Plan as well as the recent submission of an EOI to the Ministry of Justice. It is also relevant to reiterate, in particular, practitioners' belief that the current court process and the systems around the court could be more effective when sentencing young people and young adults in the West Midlands. The Ministry of Justice is yet to make a decision on whether the West Midlands' application to be one of these pilots has been successful. However, whatever the outcome, there is clearly momentum growing nationally and locally for PSCs that could be harnessed.

Taking this all into consideration, our findings suggest that there is the local support and commitment from agencies to pilot a PSC in the West Midlands. In part, this support sees a PSC pilot as being an opportunity to develop innovative ways of addressing re-offending. The PSC pilot could act as a place-based test bed, allowing West Midlands partners the time and space to re-design how existing services can work better together, providing a better package of support around individuals. Moreover, the creation of a PSC pilot can provide an opportunity for partners to work together to develop practical ways of delivering a more procedurally fair court experience. In this sense, our interviewees left us with the strong impression that a PSC pilot could act as catalyst for local innovation and a more dynamic and evidence-based approach to community supervision more generally.

That said, any new pilot would need to contend with the practical challenges of changing business as usual, especially given the ongoing operational challenges in the justice system, not least of Covid-19. Given the West Midlands' application to become one of the Government's problem-solving pilots, concerns were raised that the demands on the court would be too great to have multiple problem-solving pilots at the same time. Given the additional resources and national buy-in that the Ministry of Justice PSC pilots will have, it may be desirable to develop an implementation plan that allows time for the Government pilot to be embedded first. Stakeholders may be more favourable to trialling another problem-solving court once they can see the benefits from a women's pilot. Another solution, that prevents losing the current momentum for problem-solving initiatives, is to pilot a PSC for young people or young adults in a different court to the one proposed for the Government pilot programme (Birmingham Magistrates' Court), either in another Magistrates' Court in the region, or at Crown Court. If trialling such an approach at Crown Court, care would need to be taken to avoid net-widening.

Of course, if the West Midlands were unsuccessful in becoming a Government pilot, local partners would have to reflect on how to harness the enthusiasm for PSCs in the future. It remains to be seen what the Ministry of Justice appetite is for PSCs outside of the 5 new pilots but, at this point, there is no clear barrier in what the Ministry of Justice has announced so far that precludes local development of a PSC. Given the interest in young people and young adults, and the Ministry of Justice's broader concerns about neuro-diversity, this may be an area to explore with national stakeholders. What is clear, however, is that, whatever the Ministry of Justice decision is, there is considerable appetite to trial new problem-solving approaches in the West Midlands, and the enthusiasm to re-think and adjust existing ways of working, in order to reduce crime and keep communities safer.

## Recommendations for change

We suggest that following steps could be taken to grow PSC approaches in the West Midlands:

### *Build the case for problem-solving courts in the West Midlands*

- 1. If successful, implement the Government problem-solving court first:** If the West Midlands' application to become one of the Government's pilots is successful, the additional resources and national and judicial buy-in that these pilots will have make it desirable to develop a regional implementation plan that allows time for the Government pilot to be embedded first. As the benefits from the pilot are realised, stakeholders are likely to be more favourable to trialling other problem-solving courts. Alternatively, there may be scope to pilot a PSC for young people or young adults in a different court to the one proposed for the Government pilot programme (Birmingham Magistrates' Court), either in another Magistrates' Court in the region, or at Crown Court.
- 2. Prioritise engagement with the judiciary:** Many practitioners we spoke with were keen to impress on us the importance of engaging with judges and magistrates (local and central) as soon as possible. It is crucial that all future discussions about both the Government pilot (if West Midlands is successful) and the wider potential deployment of problem-solving approaches with young people and/or young adults involve them.
- 3. Share learning from the Birmingham and Solihull FDAC with a wider audience:** Whilst FDAC is a family justice system initiative, there is still much to learn from its implementation and delivery when developing criminal justice PSCs. FDACs share many similar characteristics, including; review hearings, enhanced agency collaboration and an emphasis on procedural fairness. There may also be some cross over as many family judges also sit in the youth court.
- 4. Build local support for problem-solving for young people and young adults by increasing stakeholder engagement:** We recommend developing existing local understanding and support for problem-solving courts by (i) having them as a standing agenda item at the Local Criminal Justice Board (LCJB) meeting; (ii) collaborating with young people and young adults, to better understand their experience of court, and use their suggestions for change, to add legitimacy proposed pilots; (iii) convening a young adult working group (with representatives from probation and other relevant agencies) to agree shared actions to address the distinct needs of young adults, including developing the prototype of a PSC model for them.
- 5. Clarify target population for the proposed courts:** From our discussions, there was broad support for targeting young people or young adults at the cusp of custody. Having a specific target group is important to ensuring a pilot has a focus, and promotes an evidence-led approach that helps to avoid net-widening (drawing more people further into the justice system than necessary) and 'over-dosing' (where overly intensive sentence conditions are imposed for low-risk individuals, this can worsen outcomes).

### *Wider recommendations for improvement*

- 6. Undertake a review of cases that have appeared before the court but were suitable for diversion:** Diversion has positively reduced the number of young people coming to court. However, practitioners raised concerns that there are still some incidences where young people are missing out on diversion opportunities and are appearing at court. We suggest undertaking a short local study to better understand how and why some young people are appearing at court unnecessarily.
- 7. Enhance court and out-of-court procedures:** We heard a number of suggestions to improve the overall justice experience of children and young adults in the West Midlands, including improving the procedural fairness of court proceedings; in-court services, such as advice services, to provide additional support and guidance to defendants and their families during and after the hearing; better provision of specialist services for marginalised groups, such as BAME and care-experienced individuals, who are over-represented in the justice system.

## Endnotes

1. West Midlands Police and Crime Plan 2021-2025. <https://www.westmidlands-pcc.gov.uk/wp-content/uploads/2021/10/The-West-Midlands-Police-and-Crime-Plan-2021-25.pdf?x52165>
2. Barrow Cadbury Trust, T2A's Approach: <https://t2a.org.uk/about-us/the-t2a-approach-to-young-adults/>
3. The Centre for Justice Innovation has a long and deep interest in the development of problem-solving courts. We are the national provider of support to Family Drug and Alcohol Courts (FDACs), a family problem-solving court model. We have helped support PSCs across the UK, including the creation of new courts in Scotland and Northern Ireland, and currently convene the only community of practice bringing together PSCs across the UK. Phil Bowen, Director at the Centre, in his recent role as a policy fellow at the Ministry of Justice, advised the Government in their development of their recent Sentencing Bill, including the commitment to pilot five new problem-solving courts across England and Wales. We also have a strong partnership with the Center for Court Innovation, the leading proponent of problem-solving courts in the USA.
4. Bowen & Whitehead (2015). Problem-Solving Practice: An Evidence Review. Centre for Justice Innovation: <https://justiceinnovation.org/sites/default/files/media/documents/2019-03/problem-solving-courts-an-evidence-review.pdf>
5. See: Downey, P. M., & Roman, J. K. (2010). A Bayesian meta-analysis of drug court cost-effectiveness. Washington, DC: Urban Institute.; Latimer, J., Morton-Bourgon, K., & Chrétien, J. A. (2006). A meta-analytic examination of drug treatment courts: Do they reduce recidivism?. Ottawa, Canada: Department of Justice Canada; Lowenkamp, C. T., Holsinger, A. M., & Latessa, E. J. (2005). Are drug courts effective: A meta-analytic review. *Journal of Community Corrections*, 1, 5–28; Mitchell, O., Wilson, D. B., Eggers, A., & MacKenzie, D. L. (2012). Assessing the effectiveness of drug courts on recidivism: A meta-analytic review of traditional and nontraditional drug courts. *Journal of Criminal Justice*, 40, 60–71; Sevigny, E. L., Fuleihan, B. K., & Ferdik, F. V. (2013). Do drug courts reduce the use of incarceration?: A meta-analysis. *Journal of Criminal Justice*, 41, 416–425; Shaffer, D. K. (2011). Looking inside the black box of drug courts: A meta-analytic review. *Justice Quarterly*, 28, 493–521
6. McIvor, G., Barnsdale, L., Eley, S., Malloch, M., Yates, R. & Brown, A. (2006). *The operation and effectiveness of the Scottish drug court pilots*. Edinburgh: Scottish Government.
7. Northern Ireland Courts and Tribunals Service and Northern Ireland Statistics and Research Agency (NISRA) (2020). Evaluation of the substance misuse court pilot. Available at: <https://www.justice-ni.gov.uk/sites/default/files/publications/justice/evaluation-of-the-substance-misuse-court-pilot.pdf>
8. Bowen and Whitehead, (2015). Problem-Solving Practice: An Evidence Review.
9. See Davis, R.C., Smith, B.E. & Rabbitt, C. (2001). Increasing convictions in domestic violence cases: A field test in Milwaukee. *The Justice System Journal*, 22, 62–72.; Eckberg, D. & Podkopacz, M. (2002). Domestic Violence Court in Minneapolis: Three levels of analysis. Chicago, IL: Presentation, American Society of Criminology Annual Conference. Chicago, IL. 15 November.; Gover, A.A., MacDonald, J.M. & Alpert, G.P. (2003). Combating domestic violence: Findings from an evaluation of a local domestic violence court. *Criminology and Public Policy*, 3, 109–132.
10. See Cissner, A., Labriola, M. & Rempel, M. (2013). Testing the Effects of New York's Domestic Violence Courts. New York: Centre for Court Innovation.; Quann, N. (2007). Offender profile and recidivism among domestic violence offenders in Ontario, Problem-solving courts: An evidence review 38 Canada. Ottawa, Canada: Department of Justice, Research and Statistics Division.
11. National Offender Management Service (2015). Effective interventions for Women offenders: A Rapid Evidence Assessment. [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/448859/effective-interventions-for-women-offenders.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/448859/effective-interventions-for-women-offenders.pdf)
12. Smith & Whitehead (2021). Problem-solving courts for women: An evidence & practice briefing. Centre for Justice Innovation: <https://justiceinnovation.org/sites/default/files/media/document/2021/Problem%20solving%20courts%20for%20women.pdf>
13. Kinsella, R. O'Keeffe, C. Lowthian, J. Clarke, B and Ellison, M. (2015). Evaluation of the Whole System Approach for Women Offenders: Interim Report. <https://mmuperu.co.uk/blog/outputs/evaluation-of-the-whole-system-approach-for-women-offenders-executive-summary-dec-2015/>
14. Eunson, J., Murray, L., Graham, H., Malloch, M. and McIvor, G. (2018). Review of The Aberdeen Problem Solving Approach. <https://www.storre.stir.ac.uk/handle/1893/29651?mode=full#.YU2xZbhKhPY>
15. See Green, B. et al. (2007). How effective are Family Treatment Drug Courts? Outcomes from a four-site national study. *Child Maltreatment*, 12, 1.; Worcel, S. et al. (2007). Family Treatment Drug Court Evaluation Final Report. Submitted to Center for Substance Misuse Treatment, Substance Abuse and Mental Health Services Administration. Washington DC: US Department of Health and Human Sciences.; Worcel, S. et al. (2008). Effects of Family Treatment Drug Courts on substance abuse and child welfare outcomes. *Child Abuse Review*, 17, 427–443.
16. Harwin et al (2011). The Family Drug & Alcohol Court (FDAC) Evaluation Project. Brunel University.
17. Harwin et al (2014). Changing lifestyles, keeping children safe: an evaluation of the first Family Drug and Alcohol Court (FDAC) in care proceedings. Brunel University, 2014.

18. Harwin et al (2016). After FDAC: outcomes 5 years later. Final Report. Lancaster University
19. Walters and Bulger (2019). "Procedural justice perceptions, legitimacy beliefs, and compliance with the law: a meta-analysis" in *Journal of Experimental Criminology* Vol 15 (341-372)
20. See Tyler, T. (1990). *Why people obey the law*. New Haven, CT: Yale University Press; Lind, E.A., Kulik, C.T.; Ambrose, M. & de Vera Park, M.V. (1993). Individual and corporate dispute resolution: Using procedural justice as a decision heuristic. *Administrative Science Quarterly*, 38, 224–251.; Korsgaard, A. & Roberson, L. (1995). Procedural justice in performance evaluation: The role of instrumental and non-instrumental voice in performance appraisal discussions. *Journal of Management*, 21, 657–669.; Bies, R.J. & Shapiro, D.L. (1988). Voice and justification: Their influence on procedural fairness judgments. *Academy of Management Journal*, 31,676–685.; Price, K. et al. (2004). The effects of voice-based participation across multiple and interrelated stages of decision-making, *Academy of Management Proceedings*, 64, 1–6.
21. Nagin, D.S. (2013). "Deterrence in the Twenty-First Century," in *Crime and Justice in America: 1975-2025*, ed. M. Tonry, Chicago, Ill.: University of Chicago Press: 199-264
22. Bowen & Whitehead (2015). *Problem-Solving Practice: An Evidence Review*. <https://justiceinnovation.org/sites/default/files/media/documents/2019-03/problem-solving-courts-an-evidence-review.pdf>
23. Barrow Cadbury Trust/Transition to Adulthood Alliance (YA00010). Cited in House of Commons Justice Committee (2016). *The Treatment of young adults in the criminal justice system*, p. 6 London: House of Commons
24. See, for example: Pruin & Dunkel. (2015). *Better in Europe? European responses to young adult offending*. Barrow Cadbury Trust p.11
25. Bottoms, A. (2006). *Crime Prevention for Youth at Risk: Some Theoretical Considerations*. Resource Material Series No. 68, 21-34.
26. Thomas and Ely (2018). *A fairer way: procedural fairness for young adults at court*. Centre for Justice Innovation: [https://justiceinnovation.org/sites/default/files/media/documents/2019-03/cji\\_a-fairer-way\\_digital.pdf](https://justiceinnovation.org/sites/default/files/media/documents/2019-03/cji_a-fairer-way_digital.pdf)
27. See 153.Casey B.J., Jones, R. & Hare, T. (2008). The adolescent brain. *Annals New York Academy of Science*, 1124, 111-126.; Steinberg, L. (2014). *Age of Opportunity: Lessons from the New Science of Adolescence*. New York: Houghton Mifflin Harcourt Publishing Company.; Howell, J.C., Feld, B.C., Mears, D.P. Farrington, D.P., Loeber R. & Petechuk, D. (2013). *Bulletin 5: Young offenders and an effective response in the juvenile and adult justice systems: What happens, what should happen, and what we need to know*. Study Group on the Transitions between Juvenile Delinquency and Adult Crime. Final report to National Institute of Justice (Grant number 2008-IJCX-K402). Retrieved from <https://www.ncjrs.gov/pdffiles1/nij/grants/242935.pdf>
28. Dunkel, F. & Pruin, I. (2012). Young adult offenders in juvenile and criminal justice systems in Europe, in Lösel, F., Bottoms, A. & Farrington, D. P. (eds). *Young Adult Offenders. Lost in transition?* London, New York: Routledge. pp. 11–38.
29. Thomas and Ely (2018). *A fairer way: procedural fairness for young adults at court*.
30. See press release from Mayor of London and London Assembly on £3 million pilot to reduce reoffending by young adults, 03 March 2021, <https://www.london.gov.uk/press-releases/mayoral/first-hub-to-be-based-in-newham>
31. Greene, C., Sprott, J., Madon, N. & Jung, M. (2010). Punishing Processes in Youth Court: Procedural Justice, Court Atmosphere and Youths' Views of the Legitimacy of the Justice System. *Canadian Journal of Criminology and Criminal Justice*, 52(5), 527-544. Cited in Lacey, L. (2012). *Youth Justice in England and Wales: Exploring young offenders' perceptions of restorative and procedural justice in the referral order process*.
32. Eunson, J., Murray, L., Graham, H., Malloch, M. and McIvor, G. (2018). *Review of The Aberdeen Problem Solving Approach*, Edinburgh: The Scottish Government.
33. Murphy, K. (2015). Does procedural justice matter to youth? Comparing adults' and youths' willingness to collaborate with police. *Policing and Society*, 25(1), 53-76.
34. Murphy, K. & Gaylor, A. (2010). *Policing youth: Can procedural justice nurture youth cooperation with police?* Alfred Deakin Research Institute, Working Paper no. 6.
35. Sprott, J. & Greene, C. (2008). Trust and confidence in the courts: Does the quality of treatment young offenders receive affect their views of the courts? *Crime and Delinquency*, 12 March 2008. Cited in Lacey, L. (2012). *Youth Justice in the UK: Exploring young offenders' perceptions of restorative and procedural justice in the referral order process*. PhD Thesis. London: London School of Economics.
36. Ministry of Justice and Youth Justice Board (2021) *Youth justice statistics 2019/20*. [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/956621/youth-justice-statistics-2019-2020.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/956621/youth-justice-statistics-2019-2020.pdf)
37. Ministry of Justice and Youth Justice Board (2016) *Youth custody report: September 2016*. <https://www.gov.uk/government/statistics/youth-custody-data>
38. Ministry of Justice and Youth Justice Board (2020). *Assessing the needs of sentenced children in the Youth Justice System 2018/19 in England and Wales*. [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/)



39. Chard, A. (2021). Punishing Abuse: Children in the West Midlands Criminal Justice System. West Midlands Combined Authority and West Midlands Police and Crime Commissioner. <https://www.westmidlands-pcc.gov.uk/wp-content/uploads/2021/03/Punishing-Abuse-ResponseV2-003.pdf?x52165>
40. Ministry of Justice, Youth justice annual statistics 2015 to 2016: supplementary tables, Ch 2, table 2.6 (2017) – <https://www.gov.uk/government/statistics/youth-justice-statistics-2015-to-2016>
41. Prison Reform Trust (2016). In Care, Out of Trouble: How the life chances of children in care can be transformed by protecting them from unnecessary involvement in the criminal justice system. Report of an Independent review chaired by Lord Lamming. London: Prison Reform Trust.
42. See for example, Bateman, T (2017). The State of Youth Justice 2017: An overview of trends and developments. London: National Association for Youth Justice. (Chapter 5).
43. See for example Campbell and Abbott (2012) Same Old: the experiences of young offenders with mental health needs. Young Minds; Bryan et al (2015) Language difficulties and criminal justice: the need for earlier identification, International journal of language and communication disorders, 50 (6), 763-775; Speech, Language and Communication Needs identified in YJB survey of practitioners (2012) as a key area for developing and prioritising effective practice.
44. Ministry of Justice and Department for Education (2016) Understanding the Educational Background of Young Offenders. Joint experimental statistical report from the Ministry of Justice and DfE.
45. Chard, A. (2021). Punishing Abuse: Children in the West Midlands Criminal Justice System. West Midlands Combined Authority and West Midlands Police and Crime Commissioner.
46. Hunter, G., Ely, C., Robin D'Cruz, C. & Whitehead, S. (2020). Time to get it right: Enhancing problem-solving in the Youth Court. Institute for Crime and Justice Policy Research, Birkbeck and Centre for Justice Innovation. [https://justiceinnovation.org/sites/default/files/media/documents/2020-06/time\\_to\\_get\\_it\\_right\\_final.pdf](https://justiceinnovation.org/sites/default/files/media/documents/2020-06/time_to_get_it_right_final.pdf)
47. Ministry of Justice and Youth Justice Board (2020) Youth Justice Statistics 2018/19.
48. Local Government Association, 'Councils Warn Against Further Youth Offending Cuts', 9 March 2019.
49. Hunter, G., Ely, C., Robin D'Cruz, C. & Whitehead, S. (2020). Time to get it right: Enhancing problem-solving in the Youth Court. Institute for Crime and Justice Policy Research, Birkbeck and Centre for Justice Innovation.
50. Petrosino, A., Turpin-Petrosino, C. & Guckenberg, S. (2010). Formal System Processing of Juveniles: Effects on Delinquency. Pennsylvania: Campbell Systematic Reviews.; McAra, L. & McVie, S. (2007). Youth Justice? The impact of system contact on patterns of desistance from offending. European Journal of Criminology, 4, 315–334.; Kemp, V., Sorsby, A., Liddle, M. & Merrington, S. (2002). Assessing responses to youth offending in Northamptonshire. Nacro Research Briefing 2.
51. Madell, D., Thom, K. & McKenna, B. (2013). A systematic review of literature relating to problem-solving youth courts. Psychiatry, Psychology and Law, 20, 412–422.
52. Butts, J., Roman, J. & Lynn-Whaley, J. (2011). Varieties of Juvenile Court: Nonspecialized Courts, Teen Courts, Drug Courts, and Mental Health Courts, in The Oxford Handbook of Juvenile Crime and Juvenile Justice. Feld, B.C. & Bishop, D.M. (eds). New York: Oxford University Press.
53. Sapouna, M., Bisset, C. & Conlong, A. (2011). What works to reduce reoffending: A summary of the evidence. Edinburgh: Justice Analytical Services, Scottish Government.
54. Much of this evidence comes from (adult) drug courts. For example Rossman, S.B., Roman, J. K, Zweig, J. M., Rempel, M. & Lindquist, C. H. (2011). The Multi-Site Adult Drug Court Evaluation, National Institute of Justice. Retrieved from <https://www.ncjrs.gov/pdffiles1/nij/grants/237112.pdf>
55. Brogan, L., Haney-Caron, E., NeMoyer, A. & DeMatteo, D. (2015). Applying the Risk-Needs-Responsivity (RNR) Model to Juvenile Justice. Criminal Justice Review, 40, 277–302.
56. Murphy, K. (2015). Does procedural justice matter to youth? Comparing adults' and youths' willingness to collaborate with police. Policing and Society, 25(1), 53-76.
57. Data was obtained relating to offences where the offender / suspect was aged 25 or under and Outcome 1 (charge / summons) was recorded by West Midlands Police in the Birmingham area between 1 January 2020 and 31 December 2020. Data was supplied in two data sets. The first contained data on individual characteristics and omitted duplicate records referring to the same individual. The second contained data on offences and included duplicate records on the same individual when they were charged with more than one offence. Each data set was further separated into two sub-sets: offenders / suspects aged below 18, and those aged 18-25.
58. Youth Justice Board Bulletin: <https://youthjusticeboard.newsweaver.co.uk/yots2/1c44rlrwrk51dc9qrrnts4?email=true&lang=en&a=2&p=60307732&t=21098815>

59. Virtual reality film designed to cut knife crime in West Midlands launches. <https://www.westmidlands-pcc.gov.uk/virtual-reality-film-designed-to-cut-knife-crime-in-west-midlands-launches/>
60. Ely, C, Thomas, T (2018) The voices of young adult defendants. <https://justiceinnovation.org/publications/voices-young-adult-defendants>

## About the Centre for Justice Innovation

The Centre for Justice Innovation seek to build a justice system which all of its citizens believe is fair and effective. We champion practice innovation and evidence-led policy reform in the UK's justice systems. We are a registered UK charity.

Written by: Claire Ely, Suzanne Smith, Phil Bowen and Stephen Whitehead

We would like to thank all the partners in the West Midlands for their time and insights.

This work is generously funded by the Barrow Cadbury Trust.



---

**Centre for Justice Innovation**  
Unit 102, Edinburgh House  
170 Kennington Lane, London SE11 5DP  
Telephone +44 (0) 203 735 9436

Registered charity in England and Wales No 1151939



This work is licensed under the Creative Commons Attribution-NonCommercial-NoDerivs 3.0 Unported License.  
To view a copy of this license, visit <http://creativecommons.org/licenses/by-nc-nd/3.0/>