

Beyond the milestone in youth justice: Learning from New Zealand

Introduction

Over the past decade, youth justice in England and Wales has achieved a remarkable milestone: fewer children are entering the formal criminal justice system, with prevention and diversion increasingly becoming the default response. Despite this progress, opportunities continue to be missed to resolve eligible cases out of court. Restricting access to diversion to children who have made a formal admission of guilt presents a key barrier to realising the goal that no child reaches a courtroom who does not need to. This paper draws on comparative lessons from New Zealand's long-standing commitment to alternatives to criminal proceedings, highlighting what can be learned from an approach that centres victim engagement and meaningful accountability without making shame or guilt a gateway to support.

Fewer children are going to court in England and Wales than ever; this is a milestone not the finish line

Over the last twenty years, the number of children coming into the formal criminal justice system, the number appearing in court and the number sent to custody have all dramatically fallen, without an increase in youth crime.¹ These achievements are strongly linked with the growth of a quiet consensus that community justice options, including the greater use of prevention and diversion, lead to better outcomes for children. This consensus is rooted in an evidence base associating formal justice processing with increased reoffending, especially for lower-risk children, and the recognition that certainty and speed in responding to offending are more important determinants of desistance than severity.² The most recent youth justice statistics, published in January 2026, show that this trend has sustained over time, with record lows of first-time entrants and children in custody.³

Despite the progress that has been made, opportunities across the system continue to be missed to divert eligible cases from court. Observations of youth court hearings conducted by the Centre for Justice Innovation highlighted several instances where children had been prosecuted in court for low-harm behaviours; these include: ⁴

- A 12-year-old boy who had shoplifted two cans of soft drink;
- A boy who had thrown a doughnut at a school bus, which had hit the driver;
- A boy in a care home who had thrown a care home worker's handbag out of a ground-floor window.

Access to diversion is also not equal for all children, with studies showing that children from ethnic minority communities, and those with Special Educational Needs and Disabilities (SEND) are less likely to be offered diversion than their peers.⁵

The introduction of new offences onto the statute books may also be shaping patterns of prosecution. Most notably, the creation of assault on a shopworker and emergency worker as a separate offence has led to a substantial number of cases being prosecuted under these provisions, many of which involve relatively low levels of harm.⁶ While this may in part reflect the reclassification of behaviour that would previously have been charged as common assault, the breadth of these offences means they capture a wide range of conduct under a single label, framing a host of behaviours and circumstances ranging in severity as assault. This creates a risk that lower-level incidents are more likely to be drawn into formal proceedings, rather than resolved through out-of-court disposals. Although there is no published data on the use of these offences in relation to children specifically, their growing use more broadly reinforces the importance of ensuring that diversion remains the default response for low-harm youth offending.

A guilty plea creates an unnecessary barrier to diversion

One factor that gate-keeps eligible cases from being resolved out of court is the requirement for the child to have admitted the offence. The evidence on the age-crime curve tells us that most children have the propensity to grow out of offending behaviour on their own, and that contact with the formal justice system can disrupt and lead to greater reoffending. This practice is in conflict with efforts to minimise this damaging impact.

We also cannot identify what is gained from this trade-off. The system's perception of a child's guilt and remorse is a poor indicator of their actual feelings, as there is no meaningful way to test sincerity.⁷ Research shows that decision-makers assess remorse through their own cultural and emotional lens, and that reliance on demeanour is particularly problematic across racial and cultural divides and where the defendant is a child.⁸ Requiring remorse within the coercive framework of the criminal justice system may be counter-productive, with people 'playing the game' and performing remorse.⁹ It may also prove self-defeating as research shows that remorse is often conflated with shame, which is correlated with increased future criminality.¹⁰ Approaches that rely on shame or remorse can miss the structural drivers of youth offending; if those underlying causes remain unchanged, focusing on shame is unlikely to prevent reoffending.¹¹

An additional issue is that the requirement for a guilty plea worsens existing inequalities in the system. For example, children with SEND often find it challenging to exhibit the expected behaviour and can find admitting guilt unfairly difficult, particularly in pressurised police interviews where communication, memory, and giving a clear, sequential account is much harder.¹²

In addition, research shows that children from minoritised ethnic backgrounds, particularly Black boys and Romani (Gypsies), Roma, and Irish Travellers, have significantly lower trust in the justice system than their white counterparts, and therefore they are less likely to admit guilt to an offence.¹³ This was a key finding of the review conducted by Justice Secretary, David Lammy, in 2016 into the treatment of Black, Asian and Minority Ethnic individuals in the criminal justice system. The Lammy Review recommended applying a more flexible criterion of 'accepting responsibility' than a mandatory admission.

Ten years on from the Lammy Review, some schemes across England and Wales have adopted this approach, but the application has been uneven. This is in part due to the lack of an agreed definition of what a child "accepting responsibility" consists of, leaving each force to take a different approach. Ultimately, unequal outcomes for ethnic minoritised children continue to be a pervasive issue.

Furthermore, although it is a lower bar, accepting responsibility is still a high expectation for a child, given the evidence on developmental maturity, which continues well into a person's mid-20s. We therefore believe that more safeguards are needed to further reduce the youth court caseload.

Learning from New Zealand

How the youth justice system is geared

In 1989, New Zealand introduced the landmark Children, Young Persons, and Their Families Act (CYPF), which transformed the country's approach to youth justice. The Act introduced a statutory aim to consider alternatives to criminal proceedings, impose the least restrictive sentence and keep children in the community wherever it is safe to do so. New Zealand has been a success story for effectively embedding this conceptual approach into practice over the last 35 years. 80% of youth offending cases do not result in a charge at court, and are instead dealt with by community alternatives.¹⁴

The majority of these cases are resolved through diversionary responses, which range from a police warning for minor incidents, to informal diversion programmes for more serious cases where the police work with the child and their family.¹⁵

A third diversionary option exists for the most serious or repeat cases of offending - the Family Group Conference (FGC). This is a unique approach to New Zealand,¹⁶ and is based on principles of restorative justice. The process involves convening a decision-making forum with the child, the family, the victim, the police and youth justice professionals. The group collaboratively formulates a plan on how to address the harm and make amends to the victim.¹⁷ It is built on a consensus model that requires agreement from all participants.¹⁸ If the child completes the plan to the satisfaction of the court, the charge is discharged. The use of FGCs is positively linked with reducing reoffending in New Zealand.¹⁹

Cases can be diverted if they are “Not Denied”

A key difference between the diversion programmes operating in England and Wales and New Zealand is that legislation allows for the FGC to be initiated without a formal admission of guilt. This can occur as long as the charge is “Not Denied” by the participating child. This is more than just a technicality as it widens participation to children who accept they are being charged, and may admit some involvement in the offence, but dispute the details or full circumstances.²⁰ The impact of this in New Zealand is significant. “Not Denied” FGCs account for 50% of all that are convened, demonstrating how the lower evidential threshold significantly broadens eligibility for diversion.²¹

Central to this approach is the recognition that maturity and cognitive development of children is different to that of adults, and the ability to understand the wrongfulness of criminal acts develops gradually.²² A key aim of the FGC is to facilitate this understanding and work with the child to understand their actions and the harm they have caused.²³ The emphasis is on accountability and addressing the underlying causes of offending.²⁴ In contrast, the requirement for a child to have this understanding and be capable of admitting full culpability before they have received this support and participated in a restorative process is both unrealistic and unfair.

In addition, research indicates that FGCs lead to better outcomes because of the restorative approach taken to developing the child’s sense of accountability.²⁵ Key factors that predict the likelihood of reduced reoffending include apologies to victims, participation in decision-making and acceptance of the conferencing agreement.²⁶

Group conferencing in the family justice system

This model of collaborative family decision making is not unfamiliar in England and Wales. FGCs have been embedded in the child protection system since the early 1990s, directly influenced by practice developed in New Zealand. Local authorities use FGCs to bring families and professionals together to agree plans for children at risk of entering care. The evidence shows that this approach improves family participation, strengthens relationships between families and the local authority, and supports more sustainable outcomes for children.²⁷

Importantly, the Government has recently moved to place family group decision making on a statutory footing through the Children’s Wellbeing and Schools Bill, which introduces a duty on local authorities to offer family group decision-making processes before initiating care proceedings, unless a child is at immediate risk. This marks a clear legislative endorsement of early, family-led resolution as an alternative to court escalation.

The contrast with youth justice is striking. In child welfare, the state is increasingly required to exhaust collaborative, family-based solutions before turning to formal proceedings. In youth justice, by contrast, access to diversion remains contingent on a child’s formal admission of guilt. The success and statutory recognition of family group conferencing in child protection demonstrates that England and Wales already accept the principle that families, supported by professionals, can safely and constructively resolve serious matters outside court. The question, therefore, is not whether such an approach is culturally or legally compatible with our system, but why its logic has not been more fully extended to youth justice.

Conclusion

The achievements made in the youth justice system in England and Wales are significant. But this milestone should not be mistaken for the finish-line. The next steps for reform should focus on dismantling the remaining barriers that prevent eligible cases from being diverted, particularly the formal admission of guilt. New Zealand's experience shows that widening access to diversion can be done without compromising public confidence or victim satisfaction.

This paper does not seek to put New Zealand on a pedestal. Like England and Wales, its youth justice system continues to grapple with deep inequities, particularly the over-representation of Māori and Pasifika children, and concerns about youth custody conditions. Yet looking to international success stories is not about importing a model wholesale, but learning from principles that can be applied to the national context. This was achieved in the child welfare system in England and Wales, which has greatly benefited from embedding New Zealand's approach to family conferencing. It is time for this learning to be integrated into youth justice proceedings.

Endnotes

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