

Early and Effective Intervention (EEI) in Scottish
Youth Justice: Benevolent Principles and
Unintended Consequences

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Signed :

(Fern Rebecca Louise Gillon)

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DEDICATION

To the labelled.

“People, even more than things, have to be restored, renewed, revived, reclaimed, and redeemed; never throw out anyone” (Audrey Hepburn)

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My outlook on life, and particularly my understanding of justice, has been shaped by so many people I could not dedicate the thesis to just one individual. However, I can't help thinking of my Gran, who advised me that "young ladies shouldn't discuss politics, religion or money". I can see you rolling your eyes at my soap box ranting.

ABSTRACT

Scotland has a distinctive youth justice system founded on the welfare ethos of Kilbrandon and the unique Children's Hearing System. The most recent addition to the youth justice landscape is the Whole System Approach and of primary concern to this research, Early and Effective Intervention (EEI). EEI a multiagency decision making process which takes a holistic, child-centred approach to offending by children and young people; views offending as a potential wellbeing concern and aims to act in a timely, effective and proportionate way. While its use in practice has increased, scrutiny of the process is scarce.

Applying a modified grounded theory methodology, this research examines how and why decisions are made at EEI and its potential impact, exploring practice in three case study locations. The research makes an original contribution to knowledge as it provides an expose of EEI decision making in practice, which then provides the opportunity to consider implications which arise from that practice.

The findings reveal inherent complexities and tensions between the intentions and practice of EEI on the ground. Applying social control theory, the potential impact of these tensions are considered in relation to outcomes for young people, practitioners and the wider youth justice system. The researcher argues that EEI represents an extension of the formal youth justice system, where the stated benevolent intentions on the part of practitioners through diversion and addressing wellbeing are met; but that net-widening, up-tariffing and boundary blurring to the detriment of rights are present and unavoidable. The system may be producing the outcomes which it aimed to avoid, particularly for groups already considered 'the usual suspects'. The research concludes that the inherent tensions in EEI, representative of wider youth justice system tensions, must be acknowledged by actors at various levels of the Scottish Youth justice system; scrutiny applied to both practice and underlying concepts; and a consideration of a truly diversionary, rights-based and inclusive system required for those involved in offending or who come into contact with the formal youth justice system.

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ABBREVIATIONS

CFOS - Children First, Offender Second

CSO-Compulsory Supervision Order

CYCJ- Centre for Youth and Criminal Justice

DP-Diversion from Prosecution

DPA- Data Protection Act

E EI -Early and Effective Intervention

GIRFEC- Getting It Right for Every Child

NYJAG -National Youth Justice Advisory Group

PF- Procurator Fiscal

PRS-Pre-Referral Screening

RFPP- Risk Factor Prevention Paradigm

SCRA- Scottish Children's Reporters Administration

UNCRC- United Nations Convention on the Rights of the Child

VPD- Vulnerable Person Database

WSA- Whole System Approach

1 INTRODUCTION

“Youth diversion should be a critical and transformative endeavour above all else, in the pursuit of the overarching goal of better childhoods” (Smith, 2018, 156).

Early and Effective Intervention (EEI) is a multiagency decision-making practice unique to Scotland, which aims to address low level offending by children and young people. Influenced by critical research evidence and theories of diversion (McAra and McVie, 2010); and within the favourable conditions of the welfare based Scottish youth justice system, EEI has the makings to achieve, as noted in the above quote, improved outcomes for children and young people who come into contact with the youth justice system. Falling youth crime statistics are anecdotally linked to the introduction of EEI, which is viewed as effectively addressing and preventing offending at the lower end of the scale. As such EEI, and the wider Whole System Approach (WSA), which aims to outline a consistent approach to working with children involved in offending and anti-social behaviour, receives widescale support and approval within practice, policy and government circles.

As arguably the first stage of entry into the youth justice system, EEI represents the largest aspect of the WSA, and referrals to EEI have increased over 5000% since its inception and national roll out in 2008. Despite this, there has been very little academic or external examination or scrutiny of EEI specifically (Papadodimiraki, 2016), although EEI did feature in the recent evaluation of the wider WSA (Murray, 2015). Therefore, this research is timely in aiming to critically assess the extent to which the intended benevolence of the approach is realised in practice and from different perspectives within the youth justice system, by examining how and why decisions are made in the context of EEI. The research aims to address the following questions:

- What are the governing principles evident in the youth justice system in Scotland?
- How does EEI function in practice and what are practitioner's reflections on how multiagency working functions in the context of EEI?
- What discourses are evident in the decision making of youth justice practitioners and to what extent are they reflected in the wider youth justice landscape?
- What are the implications of this approach to youth justice for:
 - Children and young people involved in offending behaviour aged 8-18;
 - Practitioners, both involved in and affected by Early and Effective Intervention;
 - The wider youth justice landscape

This research benefited from the emergent approach to enquiry gained from applying a modified grounded theory approach to a case study methodology. This allowed the research to be informed by and reflective of the practice reality in the case studies, while allowing wider theoretical implications across and out with the case study locations to be developed. Interviews and observations over a period of data collection within the case study locations provided the opportunity for the perspectives and experiences of EEI practitioners and their decision making practices to be understood in depth.

The application of modified grounded theory analysis techniques resulted in the emergence of findings in the form of 8 core categories including themes covering: the values and perspectives influencing decision making; issues in relation to decision making partnership; the place and perspective of young people in decision making; and the placement of EEI alongside existing youth justice systems. Underlying issues arose through memoing as part of the grounded theory analysis process highlighting the inherent complexity in the EEI system and the tensions between what EEI was intended to be and to achieve, and what appeared to be the case in practice. The emergence of this intrinsic duality led the researcher to re-examine the underlying conceptual principles of diversionary activity and consider the application of Stanley

Cohen's concepts of social control theory, which argues that despite potentially benevolent principles of diversion activity it will inevitably result in negative unintended consequences through a series of processes such as boundary blurring, mesh thinning and net-widening.

The contribution of this study to the field of critical criminology is an expose of the potential for EEI, despite its benevolent intentions, to be an alternative diversionary arm of the Scottish youth justice system, to be a formal extension of that system which extends the very issue it aimed to divert: the negative impact of contact with the system, particularly for those who are already the most vulnerable and marginalised and therefore recognised and treated by the system as 'the usual suspects' (McAra and McVie, 2010).

1.1 Context of thesis

This thesis examines the practice and implications of a Scottish youth justice decision making process, Early and Effective Intervention. EEI represents the first stage of intervention within a wider Whole System Approach (WSA) to children and young people involved in offending. The WSA was implemented nationally in 2011 in order to promote a consistent approach to responses to offending by young people across all stages of the system, building on wider legislation in relation to children and young people - namely GIRFEC¹ which hopes to see Scotland become the best place for children and young people to grow up. Underpinning EEI decision making is the notion that offending behaviour is a wellbeing concern in the life of the young person, and that addressing wellbeing concerns can promote desistance. EEI is representative of diversionary pursuits in so far as they aim to address offending behaviour out with the formal youth justice system, as it is currently understood in Scotland as the Children's Hearing System (CHS), or the adult court.

¹ GIRFEC- Getting It Right for Every Child - is the national approach in Scotland to improving outcomes and supporting the wellbeing of children and young people.

EEL is in keeping with an arguably distinctive Scottish approach to youth justice and, while being influenced by varying imperatives, is primarily concerned with dealing with offending behaviour in the context of the holistic needs of the child. Scotland champions its longstanding and unique approach to dealing with children and young people who come into contact with the law, understood broadly as the Kilbrandon approach (Scottish Government, 2015a), which acknowledges the similar circumstances of children in need of care and protection and those in need of guidance and control in regard to their behaviour: coined as a 'needs and deeds' approach. A separate lay tribunal system was initiated by the Kilbrandon Report and the subsequent Social Work (Scotland) Act 1968 outlined the foundations of the Children's Hearing System. The CHS system has remained largely unaltered since its inception, despite criticism and scrutiny, and remains a flagship of the Scottish welfare approach to youth justice with its central premise of decision making in the best interests of the child. The devolution of youth justice to the Scottish Government has been attributed to the protection of the primacy of the welfare approach against wider shifts in punitive rhetoric evident in other jurisdictions. While welfare is the dominant model (Muncie, 2006), the creation and embedding of values is complex and the supremacy of welfare should not be assumed. Policy and practice is representative of multiple, intricate and sometimes competing paradigms (McAllister and Carr, 2014) and similarly, Scottish Youth justice has been shown to have been swayed by new and alternative approaches to dealing with young people who offend, including more punitive and actuarial persuasions (McAra, 2011; 2017).

The youth justice approach in Scotland has developed over time with a relative degree of political and intellectual consensus and throughout various phases of policy implementation has faced very little scrutiny (McAra, 2017). The introduction of the WSA and EEL is the largest transformation and, as this thesis argues, an addition to the formal youth justice system since Kilbrandon. Key to the formation of the current approach is the Edinburgh Study of Transitions and Crime, a longitudinal study into the offending trajectories of young people in Scotland (McAra and McVie, 2005; 2007; 2010; 2012). The findings of that study suggest that intensive contact with the

CHS is linked to increased offending through processes akin to labelling theory; and that the discretion of decision makers construct a core clientele - 'the usual suspects': typically, young people of low socio-economic status, with negative peer associations; and early involvement in offending. The recommendation of that research was therefore that, akin to labelling theory, the promotion of minimum intervention and maximum diversion from the harmful effects of system contact was required. As such, youth offending concerns which were previously sent to the Children's Reporter for consideration of involvement in the CHS or dealt with through direct police measures are now diverted through alternative systems under the WSA, such as the option to be discussed via a multiagency decision making process, EEI. The process is loosely prescribed in policy as supporting effective, timely and proportionate decisions. However, it is purposefully non-prescriptive to allow for local youth justice practice variations (Scottish Government, 2015a). It is the reality of this system, in terms of its decision making practice and implications, which this research aims to examine.

Prior to examining EEI decision making practices, the researcher undertook a national scoping study of EEI practice to develop a greater understanding of the practice landscape and variations which existed. The findings of the scoping study highlighted variation in practice including processes; attendance and decision making. The scoping study informed methodological decisions such as the case study selection for the fieldwork which followed; and the conceptual focus of the research through areas for discussion and observation during the fieldwork.

This thesis explores the practice of Early and Effective Intervention (EEI) as an integral process in the Scottish Youth Justice System. Specifically, the thesis examines how and why collective decisions are made at EEI, considering the potential impact this process has on outcomes for practitioners, children and young people involved in offending and the wider youth justice system.

1.2 Structure and outline of the thesis

Chapter 2 reviews the theoretical origins of EEI through the exploration of diversion and labelling theory; and their specific influence in youth justice policy and practice in Scotland through the seminal research study, *The Edinburgh Study of Youth Transitions and Crime* (McAra and McVie, 2005; 2007; 2010). The chapter also presents the work of Cohen's theory of Social Control, whose key concepts such as net-widening and boundary blurring were later applied to the findings of the research to further support the theoretical development of the findings which emerged from the fieldwork. These findings show that despite benevolent intent, the diversionary agenda often results in increased social control and negative unintended consequences - rather than minimum intervention and genuine diversion as argued by social control theory.

Chapter 3, part 1, considers the conceptual frameworks which account for the development of and underpin much of critique of periods of youth justice policy and practice. While acknowledging the reality that jurisdictions implement a myriad of both complementary and competing ideals, chapter 3 traces the development of, and draws on the frameworks influencing, the current Scottish youth justice system. Part 2 of this chapter looks specifically at the uniquely Scottish youth justice practice of investigation in this study: EEI, outlining the conceptual and policy aims and influences; and providing a national overview of EEI practice - as developed from the initial scoping study.

Chapter 4 outlines the methodological decisions made by the researcher during the period of this research which include multiple methodological approaches and data collection methods. An introductory explanation to the research journey ensures the reader understands that, as is often the case with research, the decisions made were not linear as they have been presented. Modified grounded theory was applied as a useful methodological approach, after data collection in the form of an initial scoping study had been undertaken with the aim of establishing the selection of appropriate case study locations. The chapter details how the research benefited from the flexible yet robust modified grounded theory approach, which prioritises methodological

decisions based on their ability to elicit the best data as they emerge in order to gain theoretical insights from the complex practice landscapes, such as the one under investigation.

In keeping with the modified grounded theory approach, chapter 5 provides an overview of the initial findings of the research as they emerged from the data through the coding process, prior to theoretical development. They are presented as neutrally as possible to show the rigour applied to the coding process in the absence of theoretical direction. Grounded theory aims to create theories which are both reflective of the practice in which data have been collected and theoretically relevant to wider practice. This chapter provides the reader with the findings in order to ensure these two aims have been met rigorously in the thesis overall.

The proceeding three chapters present the findings as they emerged from the data and discuss their relevance in relation to wider theoretical conceptualisations, such as those of Cohen's theory of social control. The duality which arose from the analysis of the findings between benevolent intentions and negative unintended consequences; and the complex nature of micro, meso and macro intentions, interpretations and implications are discussed across the three chapters.

Chapter 6 addresses how EEI is understood by practitioners and how decision making is practised across the case study locations. In particular, the discord between the aims and reality of decision making in partnership emerged as a central issue for practitioners. The chapter highlights inconsistencies at the principle, policy and practice level. However, overall practitioners and their stated intentions, and actual interventions are benevolent.

Chapter 7, building on the findings of EEI's varied intentions and practice, considers the implications of EEI decision making on outcomes for children and young people involved in offending behaviour; and subsequently the wider youth justice system. The chapter argues that rather than an alternative system offering diversion, EEI represents an extension of the youth justice system through processes of net-widening and up-tariffing. This is shown to be particularly problematic for young

people already known to services, 'the usual suspects', whose vulnerable and marginalised status drags them further into the net. The system, through processes of boundary blurring, has a disregard for adherence to due process, young people's rights and their meaningful involvement in decision making.

Chapter 8 has the important task of taking the relevance of the thesis beyond an overly pessimistic critique of the system by providing both practical recommendation which emerged from the research; and a conceptual space to consider the implications of the analysis for the future of youth justice principles, policy and practice in Scotland.

Chapter 9 concludes by presenting a summary of the thesis, the main findings and their implications, as well as the limitations of the study, before providing recommendations for future research.

2 THEORY: WIDER, STRONGER, AND DIFFERENT NETS

Early and Effective Intervention (EEI), as a current practice of diversion, has the potential to “be a critical and transformative endeavour...in the pursuit of the overarching goal of better childhoods” (Smith, 2017, 156). This chapter will show that diversion, as understood as the avoidance of labelling as a result of contact with formal justice systems, while stating benevolent yet complicated intentions, may extend negative unintended consequences, through net-widening and blurring of boundaries, as noted by social control theory. The findings of this research, as presented in chapters 5, 6, 7 & 8, show that the logic of current EEI practice is influenced by benevolent and theory-informed understandings of diversion. Informed by the work of social control theory, such diversion may contribute to forms of net-widening, through dispersal of interventionist powers to create an additional layer of the youth justice system and ‘business as usual’ earlier, both in the lives and offending trajectories of young people.

2.1 Introduction

Chapter 1 provided an introduction to the thesis establishing the rationale and context of the study; outlining the methodological decisions made in terms of the research design; providing an overview of the thesis findings; and clearly articulating the contribution to knowledge. The research examined how and why decisions are made in a multiagency youth justice context such as EEI, as it is practiced in Scotland. This chapter will provide an overview of key theoretical developments in relation to: diversionary justice practices; labelling theory; and key concepts which inform social control theory which consider the impact of diversion. Drawing on insights from social control theory, the chapter aims to provide a theoretical basis for the assertion that while EEI may have benevolent intentions there are a number of negative unintended consequences and as such it extends the youth justice system through a process of net-widening. Key concepts from Cohen’s (1985) theory ‘Visions of Social Control’ including: ‘net-widening’; ‘blurring the boundaries’; and labelling theory’ will be considered. Through combining the elements of Cohen’s theory, in chapter 6, 7

and 8 the researcher effectively argues that EEI is an extension of the formal youth justice system, which has the potential to create a range of negative outcomes for young people involved in offending. The aspects of Cohen's theory presented in 'Visions of Social Control' provide theoretical sustenance and oversight to the diverse and continuing debates around the level, intent, and outcomes of youth justice intervention, which will be discussed in chapter 3.

2.2 Diversion and Labelling Theory

It is helpful, prior to introducing the theory of social control, to provide a further overview of the theoretical logic of diversion and labelling in relation to the aims of EEI. Diversion has been a relatively consistent pursuit of the youth justice establishment throughout its creation and development. Morgan (2008) considers the principle of 'proportionality of imposition' (Ashworth & Redmayne, 2005), which states that the level of criminal intervention, both process and sanction, be proportionate to the seriousness of the offence. The more serious the offence is considered to be, the more onerous the sanction and the greater the procedural safeguards. Conversely, minor offences become candidates for diversion from the system and to some extent all criminal justice systems in contemporary, democratic societies have practices representative of this system (Morgan, 2008).

Diversion can operate at different levels including: preventative work to divert young people from offending behaviour; early intervention to avoid further offending and potential contact with the justice system; and true diversion from formal, judicial settings (Richards, 2014). EEI represents the second level of diversion which aims to divert young people from further offending and potential formal system contact by intervening early in order to address their wellbeing and offending concerns following involvement in low level offending and antisocial behaviour.

Moving on to the influence of labelling theory this section will show the development of diversionary notions and interventions in the youth justice system. The central argument suggests that contact with formal youth justice systems, agencies, and

services serve to develop and reinforce delinquent identities and subsequent behaviour. Diversionary pursuits exist to circumvent such outcomes materialising.

Labelling is: a central concept in relation to youth justice; a foundational concept of diversion and minimum intervention practice; and prominent in the conceptualisation of the reality of community social control (Muncie, 2013; Cohen, 1979, 1985). The process of controlling deviant behaviour categorises individuals, labelling who is and is not classed as deviant. In accepting such labels, individuals will adopt those identities, reinforcing deviant behaviour (Kituse, 1962; Becker, 1963; Lemert, 1967). Deviancy, up until the 1960s, had been largely understood as an individual deficit of a biological, psychological, or socio-economic nature. For the first time in the field of criminological enquiry, formal labelling by agents of social control was considered to reinforce delinquent identities and result in reoffending (Muncie, 2013).

The theoretical traces of labelling assist in its explanation. Mead (1934) viewed the self as a social construction, where deviancy could be in part explained through a process of social interaction. The process of targeting, treating, and identifying behaviour as deviant through social interaction, resulting in delinquent identities, is suggested to facilitate deviant behaviour. Tannenbaum (1938) noted that social judgements transform individuals to become the core of what we understand to be deviant, explaining why some groups and acts are considered deviant and others are not. Once particular groups are assumed to act in accordance with their labels, responses to their behaviour are also affected by their label. Following the identification, establishment, and acceptance of deviant labels, individuals fulfil expectations of their labels and the social control response generates and reproduces deviancy (Lemert, 1967).

In response to the critique that labelling was unable to address the causation of initial offences, Lemert (1959) developed the theory to consider primary and secondary deviancy. Primary deviancy represented a 'temporary transgression', which was unproblematic. Secondary deviance was a result of the initial response to the primary

behaviour due to the label which had been associated with the individual. Deviancy is therefore a *process*, with attempts of social control performing a role in the creation of labels.

Wilkins (1964) suggested that as individuals are identified and intervened with as deviating from a normal spectrum of behaviour, a feedback loop of the reaction self-perpetuates future behaviour through a process of *deviancy amplification*. Becker (1963) and his work on 'outsiders' provides a central contribution to the labelling approach by proposing that:

"Social groups create deviance by making the rules whose infraction constitutes deviance and by applying those rules to particular people and labelling them as outsiders" (ibid, 9).

In defining behaviours as acceptable or unacceptable, powerful groups in society, who Becker (1963) coined as 'moral entrepreneurs', such as criminal justice agencies, adopt labelling processes by labelling certain acts as deviant. For Becker, true labelling is both a process of interaction and reaction. Society labels individuals as deviant and their subsequent acceptance of such labels and denial of conformist alternatives cement such labels. This is particularly the case for young people as they are particularly vulnerable to the persuasiveness of labels during a period of emotional and social development (Bernburg & Krohn, 2003; 2006).

Radical non-intervention (Schur, 1974) as a method of minimising the reach of formal justice intervention is one of the approaches which resulted from labelling concerns. The practice of minimum intervention would arguably include diversion and decriminalisation. The logic of labelling asserts that our collective identification of deviant behaviour and resultant stigmatisation of such individuals establishes deviant identities. Rather than prevent offending, and as such the opportunity for labelling, system contact should be reduced.

Labelling theory, while maintaining a central position in the study of crime, and popularity in the 1960s and 1970s, has over time faced periods of intense criticism. Criticisms stem from largely two positions: lack of empirical support (Hirschi, 1975;

1980) and theoretical imprecisions, the latter relating to the under conceptualisation of key constructs and preceding logic, including failure to address causes of primary deviancy (Gove, 1980). Muncie (2013) highlights criticisms around the apparent social determinism of the approach which allows for no resistance leading to a self-fulfilling prophecy and perhaps the development of a subculture to provide an alternative solid identity. The following section will provide an overview of the Edinburgh Study of Youth Transitions and Crime, which provides support for the perspective of labelling theory in Scottish Youth justice.

2.2.1 Edinburgh Study of Youth Transitions and Crime

The Edinburgh Study of Youth Transitions and Crime (McAra & McVie, 2012) provided empirical support for labelling theory in a distinctly Scottish context, which has arguably led to the changes and developments of practice under investigation in this research, namely the Whole System Approach (WSA) and EEI (McAra, 2017). The longitudinal study examined the pathways into and out of offending, to understand the extent, nature, and impact of young people's contact with formal agencies of social control. Akin to labelling theory it found earlier and more intensive contact with the youth justice system discourages desistance from further offending (McAra & McVie, 2012).

The study found that selection effects of the youth justice process result in certain categories of young people - 'the usual suspects'² - becoming propelled into a repeat cycle of referral into the system (McAra & McVie, 2005). Importantly, the deeper 'the usual suspects' penetrate the youth justice system the more this is associated with an inability to desist from offending. The research found that the 'usual suspects' received intervention due to factors in addition to their offending and sometimes to

² 'The usual suspects' were classified by McAra and McVie (2005) as a group of young people who are subject to selection effects of the discriminatory working practices of key institutions based on peer association, previous form, and visibility to control agencies resulting in repeated and more intensive forms of intervention.

the exclusion of their offending. This led to the recommendation for maximum diversion from the system and minimum intervention on the part of the system in the understanding of the impact of the cumulative effect of systematic contact which has the potential to stigmatise and criminalise. Findings from the study (McAra & McVie, 2017) have found that while youth offending, and subsequent formal youth justice action, is decreasing at all levels of the system, a 'concentration effect' remains where the system is still selecting and recycling 'the usual suspects'. Despite changes in the youth justice discourse, the system is processing in the same way (McAra, 2017).

The Edinburgh Study precedes the full implementation of EEI under the WSA and therefore formal agencies of social control include only the Police, Children's Hearing System (CHS), and Courts. These now extend wider due to multiagency EEI³. It is important to consider the potential for the findings of the Edinburgh study, around the selection, labelling, and intervention of 'the usual suspects', to be applicable to the process of EEI (see section 7.3). Interestingly through the literature review for this research, the gradual dissolution of the concept of minimum intervention in policy rhetoric is evident, despite it being an integral part of the Edinburgh study's findings.

2.3 Social Control

By applying concepts related to theories of social control the researcher can consider both the potential justifications for, and reality and consequences of, the practice of diversion under EEI. The research adopts Cohen's notion of diversion as a benevolent principle which results in negative unintended consequences. Specifically, the research will consider the core concepts of 'net-widening' and 'blurring the boundaries'.

³ For overview of Scottish Youth Justice system see A Guide to Youth Justice in Scotland: policy, practice and legislation (CYCJ, 2017) <http://www.cycj.org.uk/wp-content/uploads/2017/06/Guide-to-YJ-Overview-2017.pdf>

Diversion is yet another approach to dealing with deviancy, in light of labelling theory, in an attempt to control social order⁴. In terms of social control, the control forms an organised reaction to widely accepted notions of unacceptable behaviour. Cohen (1985, 3) defines social control as:

“...those organised responses to crime, delinquency and allied forms of deviant and/or socially problematic behaviour which are actually conceived of as such, whether in the reactive sense (after the putative act has taken place or the actor has been identified) or in the proactive sense (to prevent the act)”.

Social control, then, is the coordinated effort to regulate behaviour, an effort which may change over time and employ a range of mechanisms in attempting to do so.

While the grand theoretical origins of social control ideology are out with the scope of this thesis, it is important to detail the emergence of social control theory from the work of Foucault. Foucault's (1979) work on the function of the prison, punishment, and classification more generally transformed the discourse around penal reform to include concepts such as knowledge, power, and the disciplinary society. These concepts facilitated examination of the regulatory power of welfare state institutions in addition to those deemed more overly coercive (the prison, institutions and courts). Conceptually, Foucault's thesis indicates that penalty is a technique of power and knowledge which can be seen through the gradual refinement and expansion of mechanisms of control and discipline in modern society (Lacombe, 1996).

Visions of Social Control, theorist Stanley Cohen's (1985) seminal text, provides a critical examination of the apparent gap between the rhetoric and reality of social control systems which developed during the 1980s in both North America and Britain. Key concepts from this text, including net-widening and boundary blurring, will be

⁴ Goffman (1971, x) defines social order as: “when persons engage in regulated dealings with each other, they come to employ social routines or practices, namely, patterned adaptations to the rules...These variously motivated and variously functioning patterns of actual behaviour...together constitute what might be considered ‘social control’.

considered in relation to Cohen's observation that *"the system enlarges itself and becomes more intrusive, subjecting more and newer groups of deviants to the power of the state and increasing the intensity of control"* (Cohen, 1985, 38). Overall, his explanatory framework of *"good (but complicated) intentions-disastrous consequences"* is the summation of this thesis (Cohen, 1985, 19).

Blomberg & Hay (2007) reflect on the scope of the text which summarised historical developments, provided analysis of current trends, and considered future versions of social control. While the remit of this chapter cannot do justice to all themes considered in the text, a brief introduction to the concepts relevant to this research will be provided.

Following a period of change which Cohen (1985) describes as Master Patterns⁵, the focus of Cohen's theory lies within a period of 'destructuring' from the 1960s onwards. This represented a reversal of the previous period of formalised state authority in crime control through a process of interrelated decentralisation, de-professionalization, de-institutionalisation and re-emergence of classical justice principles. Cohen's exploration focuses on the move from the prison institution, a physical and symbolic representation of the 'old way', to processes of community correction. While Cohen's argument is based on a period of expansion from the prison estate to the community, this thesis explores the potential application of such concepts from one set of youth justice alternatives to another. The substance of Cohen's theory which is relevant to the current study is based on the reality of the deconstructed and restored community control agenda and its implications:

⁵ Cohen's (1985) Master Patterns represented four distinct periods: The state as the major social control operator; the classification and differentiation of deviant groups; the segregation of deviant groups (via prisons, mental hospitals); and finally, a repositioning of emphasis from bodily infliction to the potential to alter internal motivations.

“The benevolent sounding de-structuring package had turned out to be a monster in disguise, a Trojan horse. The alternatives had merely left us with ‘wider, stronger and different nets’” (Cohen, 1985, 38).

Of interest to the current study are the cognitive and theoretical justifications which Cohen identifies as supporting the shift (ibid). The previous system is empirically condemned as ineffective, inefficient, and counter-productive through a narrative which makes its de-structuring unarguably beneficial, or at least less harmful. Theoretical traction is gained from the stigma and labelling movements which demonstrate the prohibiting nature of contact with the formal system. Community as the site of deviance is the most logical place for preventative intervention to take place due to the suspect nature of regulatory models of justice. So convincing was the narrative, its overwhelming strength was noted by Cohen:

“Whatever the byzantine internal differences between the social control talkers, the ‘same’ destructing impulse was recorded in all parts of the machine...mouthed the same clichés, used the same slogans...and everyone could point to real changes” (Cohen, 1985, 36).

By applying a conceptual framework informed by Cohen’s work, the researcher considers his critical stance, *“why should community corrections itself not be subject to suspicion about benevolent reform?”* (1979, 343)

Much of the empirical support for net-widening across time can be seen through increasing populations elsewhere and usually further entrenched in the justice system. During the diversionary period of the 1980s, adult and youth prison populations increased suggesting overall system expansion as a result of diversion (Cohen, 1979). This research takes place in the climate of rapidly decreasing youth contact with formal youth justice systems at almost all points similarly mirrored

across the rest of the UK and mainland Europe⁶ (Eurostat, 2017). In Scotland young people's recorded criminality via offences referrals to the Children's Reporter; criminal convictions; and rates of custody appear to be on the decline. This is discussed further in chapter 2.

While there are complexities in presenting an accurate reflection of youth crime statistics, it is important to note that the current backdrop of decreasing crime provides further support to diversionary and preventative approaches. This is contrary to the times of Cohen (1985) where system expansion was evident. The researcher argues that decreasing trends in youth crime diminish the impetus for evaluation of current approaches and diverts potential scrutiny of the system.

The dichotomous conceptions of risk and welfare evident in recent UK and Scottish youth justice policy have in some way led to the unequivocal acceptance of the new diversionary, preventative, and interventionist approach as 'doing less harm', discussed in length in chapter 3. Additionally, empirical support from the Edinburgh Study (2011) provides further support for the rationale. For Cohen (1985), however, the reasonable aims of diversion mask disastrous unavoidable consequences, including net-widening and blurring of boundaries, which are discussed below.

2.3.1 Going Fishing

Net-widening is a central concept in criminology which refers to the result of a change in the system which increases system contact (Prichard, 2010) and it is generally accepted as a result of diversion activities (Decker, 1985). In this research, net-widening is suggested to have taken place due to an increase in diversionary practice, namely EEI. Austin & Krisberg (1981, 165) initially expanded the concept to explain

⁶ There has been a considerable reduction in the number of young people incarcerated across Europe, juvenile prisoners fell by 47.% between 2008 and 2011
http://ec.europa.eu/eurostat/statistics-explained/index.php/Crime_and_criminal_justice_statistics#Personnel_in_the_criminal_justice_system

'wider, stronger and different nets'. Cohen (1985) developed this phenomenon using a fishing metaphor: the youth justice system is the net, which is part of a wider ocean of society; deviants are the fish, who get caught in the net and are processed in different ways and means and some are, when deemed ready, released back into the sea. However, the labels which have been attached to them during their previous encounter with the net make it harder to swim; and inevitably some fish will be caught by the net again. While the deconstruction movement towards community alternatives should result in smaller and thinner nets, Cohen found:

"1) there is an increase in the total number of deviants getting into the system in the first place and many of these are new deviants who would not have been processed previously (wider-nets);

2) there is an increase in the overall intensity of intervention, with old and new deviants being subject to levels of intervention (including traditional institutionalisation) which they might not have previously received (denser nets);

3) new agencies and services are supplementing rather than replacing the original set of control mechanisms (different nets)" (Cohen, 1985, 44).

The expansionary size and density of the diversionary system can be viewed simply through the increased number of young people pulled into the system; increased intensity of interventions; and development of new interventions and process to sustain the system. By diverting all, from what was originally intended as an 'alternative' system, a significant proportion of 'minnows', young people who would never have required more entrenched forms of justice, are processed. While the previous systems remain for young people more entrenched in offending, a majority of shallow end catches will be subject to intervention they would not have received otherwise. In summary, the argument follows that systems become more interventionist.

The reality is that young people are not truly diverted, in the sense of being decriminalised or radical non-intervention, but rather diverted into new systems

which have expanded and become formalised. This is what Thorpe et al (1980) describes as vertical integration where a new system adjoins its predecessor rather than take its place. Rather than the intended reforms of diverting young people at the front end of the system to avoid negative consequences, the system considers all 'at risk' in a similar way and "*populations who once slipped quickly through the net are now retained much longer*" (Cohen, 1985, 53). For Cohen, the reality of diversion is 'business as usual' (ibid).

Net-widening in the above account is considered to be overwhelmingly negative; however, some argue that the opposite can be the case. Braithwaite (1994) suggests that the potential to highlight social issues which occur within the family and, community which were previously not acknowledged or addressed is an improvement in the identification and alleviation of need. In reality, the commitment to the preventative and welfare agenda can be questioned, referring to the limited spending in such areas and subsequent decreasing capacity in these areas (Lightowler, 2017). In reference to drug diversion and early intervention, Roberts & Indermaur (2006) consider net-widening from a Health perspective as providing a gateway to intervention and support, concluding that while the gateway is accessed by traditional justice systems, negative outcomes associated with labelling will undoubtedly persist.

Criticisms of the net-widening arguments arise due to its overly pessimistic, 'nothing works' approach to reforms and its hesitance to produce more productive solutions (McMahon, 1990). McMahon (ibid) notes that such a critical discourse can play into the hands of politicians who wish to change the course of penal policy, for a range of reasons. In applying such a nuanced theory to support the current findings, the researcher is conscious that the findings of this study could be misinterpreted to suggest total failure of the current system. Quite the contrary, the researcher is suggesting that while EEI will provide positive outcomes for some, critical analysis of practice is required to investigate potential negative implications to ensure a truly diversionary and holistic approach to young people involved in offending. Further to this, Cohen (1985) himself acknowledged the difficulty in being able to provide

evidence, particularly at the macro level, which supports what is a largely theoretical argument that the very nature of successful diversion would mean offending ceases and therefore cannot be measured. Attempting such research would require longitudinal, multivariate quantitative data due to the complex set of factors which influence the trajectory of offending behaviour and criminal careers.

Related to both labelling and net-widening is the concept of up-tariffing, where individuals are propelled further into the system disproportionate to the offences which they have committed (Prichard, 2010). Up-tariffing signifies stronger nets, where contact with the diversionary system has negative consequences for latter contact (Prichard, 2010). This is done by identifying and subsequently labelling wider populations 'at risk' rather than in need. Up-tariffing suggests that diversion, as an alternative, is more onerous than sentences which would have been passed under other systems. Following that initial negative contact, each successive contact with the system will potentially represent an even higher tariff, based on a potentially incorrect assumption that, 'all else has failed' (Cavadino & Dignan, 2004).

2.3.2 Blurring the Boundaries

Cohen's second concept which is of use to this study is that of 'blurring the boundaries'. This concept has implications for the youth justice system in two distinct ways and draws on wider concepts such as risk and due process. Cohen (1979, 610) explains "*blurring refers to the increasing invisibility of the boundaries of the social control apparatus*", which became less obvious during the de-structuring process of incarceration and formal justice institutions. The success of diversion demands boundary blurring to an extent in the process of removing negative labels, traditionally associated with formal justice systems. Traditional concerns regarding offending behaviour are combined with other welfare, treatment and control considerations. Pratt (1986, 230) later raises concerns regarding the "*welcoming', 'non-threatening' cloak of 'good intentions' under which the penological gradient...can be quickly traversed*".

When systems such as EEI are diverting from other systems, such as CHS, which are intended to be less harmful than alternatives, namely the adult justice systems, the underlying discourses of the new system become increasingly important in determining their effectiveness. For Cohen an alternative set of criteria, which are less explicit, are applied to decision making within these new boundaries. This point has been extended by a range of research which highlights the discriminatory nature of decision making: as an example, McCarthy (2011) argues one of the principal outcomes of early intervention, as a means of diversion, is class correction rather than crime control. McCarthy uses a two-year ethnographic study into the collaboration of social control professionals in early intervention. Findings of this research included the influence of benevolent intentions, which aim to assist young people and families 'at risk' of crime, create pathways of social control through emphasis on class status rather than simply involvement in crime or antisocial behaviour.

“High levels of discretion are accorded to social control professionals, allowing the formulation of judgements regarding the potentials as well as the actual realities of the individuals’ offending behaviour” (McCarthy, 2011, 497).

Early intervention is closely intertwined with judgements of the moral character of the young person or parent, dictated by the extent to which they were seen to be engaging with agencies. The implications of blurring boundaries can be further explored using the literature on the conceptualisation and implementation of risk in youth justice decision making.

2.3.2.1 **Risk**

The blurring of boundaries of the current system can be seen in the myriad of discourses and principles which inform its creation. Central to this approach is the concept of 'risk' in determining decisions. Risk is a central component in considering who is and is not a delinquent and determining the correct level of intervention. Chapter 3 outlines the argument that risk identifies potential causations of delinquent behaviour, however, is also fraught with difficulties and confusions.

Research tells us that involvement in criminal behaviour features in the lives of many young people and is very much part of a 'normal' pattern of development⁷ (McAra & McVie, 2007). Many young people who persist with offending behaviour are drawn from the most deprived, disadvantaged and distressed populations and the youth justice system is therefore dealing with some of Scotland's most vulnerable young people (McAra & McVie 2007; CYCJ, 2017). Risk and the control of risk dissipate from a bounded justice system to include wider agencies including family, school and education in the correction of the individual (Griffin, 2005). Risk can underwrite a responsabilizing agenda, where individual traits can be identified as criminogenic rather than acknowledging the wider socio-economic factors and social divisions which underpin them. Rather than truly identifying and addressing need, the conflation of risk can result in the 'criminalisation of social need' (Goldson, 2013) and other forms of 'repressive welfarism' (Phoenix, 2009), where welfare concerns render young people more punishable. A further potential outcome is that of 'bifurcation' a term coined by Bottoms (1977) which distinguishes between different types of children and young people who come before the justice system, *"differentiating those who need help and those who deserve punishment; serious offenders from non-serious offenders; and persistent offenders from those whose behaviour can be 'nipped in the bud'"* (Pickford & Dugmore, 2012, 39) as a result of risk and blurring the boundaries.

2.3.2.2 *Due process*

The second way in which 'blurring the boundaries' may result in 'unintended consequences' is through a failure to uphold due process⁸ and diminished importance

⁷ Self-reported offending admitted by 95% of 4,300 young people in Edinburgh Study of Youth Transitions and Crime.

⁸ Due process is the observation of the proper legal procedures in a particular context. Now: *spec.* the administration of justice in accordance with the established rules and principles of the land, typically in the context of protecting the rights of the individual; the principle of guaranteeing that this is observed in the courts. Oxford Dictionary.

of young people's rights. Cohen (1979) questioned the extent to which diversion represented a true 'alternative' process which potentially, via net-widening, could include more individuals than would have been the case under previous systems through an "*evasion of the delinquent/non delinquent distinction*" (ibid, 346). A number of studies suggest that as a result of net-widening, individuals become subject to controls which would not otherwise have been given or which under more formal systems would not be considered to have sufficient evidence (Bloomberg, 1980; Miller, 2004;). Austin & Krisberg (2002) also provide examples of US supreme court interpretation (Gault, 1967; Miranda, 1966) where basic procedural protection had been sought for children brought into contact with juvenile justice agencies and systems, however was circumvented in practice under *parens patriae* ideology. This concern is frequently raised in relation to welfare approaches to youth offending more generally: the potential for legal safeguards, integral to formal judicial proceedings, to be made redundant using the justification of paternal welfarism. Decker (1985) argues as diversion is considered a benevolent and informal alternative it is regarded as a system of "*low visibility and low accountability*" (ibid, 210). Under diversionary forms of social control, the central consideration is potential benefits of intervention rather than due process resulting in Austin & Krisberg (2002, 171) to argue that, "*instead of justice, there is diversion*". For Ezell (1989) diversion amounts to a form of coercion which lacks the protections afforded by following due process.

Not all commentators accept the assumption that no intervention is better than diversion intervention. Binder & Geis (1984) argue that intervention is a method of addressing the problems which lead to misbehaviours; a conclusion that has been shown to be prominent in current policy discourse (see chapter 3). Additionally, due process rests on the assumption that all are equal under the law. Critical criminology frequently shows that this is not the case; examples of institutional discrimination have over time become more apparent. In terms of youth offending, discretionary decision making has led to the processing of the 'usual suspects' based on a range of often class-based circumstances (McAra & McVie, 2005, 2007). The 'blurred' system of diversion facilitates increased discretion which has the potential to extend

institutional forms of inequality and social division such as class and race (Smith, 2018).

Research studies are able to provide empirical support for the theoretical consequences of wider social control: net-widening and blurring of boundaries. Thorpe et al (1980) studied the implementation of the Children and Young Persons Act (1969) and found evidence of significant detrimental system expansion in England and Wales. The creation of 'correctional' interventions targeted families based primarily on their disadvantage on the underlying belief of the benefits of pro-active intervention, contributing to overall institutionalisation by focusing the penal gaze. Similar findings from Scotland during the same period were established through the work of Morris & McIsaac, (1978) and in the United States of America by Austin & Krisberg (1981). Contemporary studies which conclude similar findings include the previously mentioned study by McCarthy (2011); and McAra & McVie's longitudinal work (2005, 2007, 2010, 2011, and 2016).

The results of net-widening and blurring of boundaries as a product of system expansion contribute to an alternative intended vision, signified by increased labelling. A greater tendency to identify a wider range of problems for a bigger population of young people means that particular young people will be identified and labelled more enthusiastically, and their earlier status as 'known' may propel them into formal systems earlier and potentially unnecessarily. For Smith (2018) the creation of additional 'rungs of the ladder', such as diversion and EEI, increase intervention rather than slow it down. The findings of this study suggest that, while there are areas of good practice based on sound evidence, there is the potential for these unintended consequences to arise as a result of the practice of EEI.

2.4 What is to be done?

A major criticism of the work of Cohen is the question of 'what is to be done' as his position is often viewed as being nihilistic. In addressing this question Cohen (1979b, 731) accepts that,

“most-short term reforms are easily absorbed and co-opted into the system and end up strengthening it...On the other hand, the advocate of genuinely radical or revolutionary changes that assume different values, is defined out of the system as in irrelevant or utopian. One also has to balance some degree of enthusiasm for what sounds like a “good idea”, with the near-certain research knowledge that nothing works much better than anything else”.

While his suggestions for what is to be done are in relation to adult populations and the prison system, rather than juveniles and community sentences, a number of the principles are applicable to both including: returning to justice as a principle; utilising existing alternatives rather than creating new ones, under the understanding that they will lead to more of the same; and raising doubts around the inherent benevolence of the system, professional expertise and what is possible from a system which is very much a product of its problem.

The researcher acknowledges that Cohen’s claims, both the nature of the problem and the solution, are subject to the boundaries of both time and politics. Nevertheless, the sentiments of the Foucauldian approach inspired analysis of the ‘new youth justice’ (Goldson, 2000) by a wide range of academics for a sustained period (Muncie, 1999, 2006; Goldson, 2010; Haines & Case, 2008; Kemshall, 2008, 2010; Gray, 2007) are characterised by Phoenix (2016) as ‘youth governance’. Smith (2018) most recently restates the usefulness of Cohen’s original ideas to tease out the complexities and inherent tensions in the application of current diversionary activities.

This research is situated in a period where the effectiveness of this approach is now being critiqued as we arguably enter a renewed shift in focus. Phoenix (2016) has critiqued the value of the ‘youth governance’ period of academic investigation and its preoccupation with governmentally as ultimately unhelpful to furthering the investigation of successful alternatives. Smith (2018) building on such notions, welcomes ‘another way’ such as the Children First, Offender Second approach developed by Case & Haines (2015). Similarly, McAra (2017, 785) suggests that

“criminologists need to evolve multilevel strategies for engagement to maximise impact and to look for multiple points of entry into discussion and debate”. In applying the work of Cohen to underpin the theoretical complexity of diversion, the researcher hopes to employ the theoretical integrity of his seminal text: a decline in formalised punishment does not equate to less penalty and control. The researcher will advance this argument, in keeping with the newer schools of thought in this field (Smith, 2018; McAra, 2017; Phoenix, 2015; Haines & Case, 2015) in the final sections of the discussion of this research (chapter 8).

2.5 Conclusion

This chapter aimed to address the theoretical underpinnings of the diversionary approach initially providing an overview of its conceptual and theoretical origins: namely labelling theory. After establishing the rationale for an approach to dealing with youth offending, the chapter applies Stanley Cohen’s theory of social control, a seminal text in the critique of the diversionary approach. Social Control theorists such as Cohen challenge the premise of diversion as a real and benevolent alternative to formal punitive mechanisms of control. By investigating the mechanism through which this critique is extended, namely net-widening and blurring of boundaries, the potential for unintended consequences will be applied to the findings of the current study in proceeding chapters.

The fundamental principles of social control theory as articulated by Cohen (1985) are applied to the findings in chapters 6, 7 & 8 in order to convey the potential limitations of the current approach. While underpinning the current study with the theoretical integrity of the social control argument is helpful to highlight the inherent tensions which exist, it is not enough to only challenge the current approach on these grounds. The researcher acknowledges in this chapter the limitations of the theory and the need to move beyond binary critiques of the approach. By applying a modified grounded theory methodology, as detailed in chapter 4, the research design

was sufficiently malleable to allow the incorporation of alternative and contradictory perspectives to arise from and be applied to the data.

3 YOUTH JUSTICE IN SCOTLAND- PRINCIPLES, POLICY AND PRACTICE

A chronological conceptual development of youth justice is presented in this chapter to establish the governing principles of youth justice in Scotland, arguably a neglected area of study. While it is the case that the landscape is likely to be comprised of a range of both competing and complementary principles, more generalised conceptual phases can be viewed through the policy and practice lens. As such, Smith (2014, 119) argues “there are both a very wide range of alternative perspectives and a substantial degree of pragmatism and complexity at play in reality, based on the dynamic interplay between a series of beliefs about what is desirable, possible, acceptable and legitimate”. Where then are we situated in current terms of Scottish youth justice-and specifically in reference to Early and Effective Intervention (EEI)?

3.1 Introduction

This chapter has sought to contextualise and problematize the conceptual landscape in which this research takes place. In providing an overview to the youth justice frameworks and current practice of EEI, chapter 3 will show that the practice under current investigation, as a form of diversion, is not devoid of fundamental tensions around: welfare and justice, rights and proportionality, and risk and wellbeing. The chapter is divided into two parts, considering related and complementary areas of knowledge and literature in relation to the study. The first section develops the conceptual frameworks applied to the study of youth justice; and secondly, the development of Early and Effective Intervention as a practice of Scottish Youth Justice will be explored. In part one, the chapter shows that youth justice is conceptually bound between a range of both competing and complementary concepts which include welfare and justice, risk and responsibility, and wellbeing and need. This is developed to show that Scottish youth justice is not devoid of these tensions,

exploring how they are conceptualised in policy. The second part of this chapter will focus on EEI, the first stage to the Whole System Approach (WSA) for young people involved in offending in Scotland, and the focus of this research. As well as presenting the conceptual underpinnings and evaluations to date of the process, this section presents findings from a scoping study which formed the initial data collection for this research. The scoping study provides an overview to EEI practice in Scotland, which at the time of collection was unknown.

PART 1: YOUTH JUSTICE FRAMEWORKS

Age is an important defining feature of social structure in society. The notion of the socially constructed child is based on the influence of social, political, historical, and moral contexts on the creation of knowledge and the way we conceptualise childhood (James et al, 1998). For Brown (2005), the construction of childhood is contradictory and confused: it can relay the potential and hope represented by childhood to restore order and innocence to wider society; alternatively, childhood represents a threat which could undermine ideals, the moral compass of society and the social order. Youth, as neither 'innocent child' nor 'mature adult' group, presents a threat to social order due to their ambiguous status and therefore receive undue attention and scrutiny (Muncie, 1993), particularly when this coincides with our understanding of crime and justice. Due to all of the above, the response to children and young people and particularly those who become involved in offending behaviour are of great academic interest.

In Scotland, a child is defined differently in different legal contexts. The Children and Young People (Scotland) Act 2014 and the United Nations Convention on the Rights of the Child (UNCRC) define a child as under 18; whereas the Children Hearings (Scotland) Act 2011 section 199 defines a child as being under 16 or between 16 and 18 years if subject to a Compulsory Supervision Order. The Adult Support and Protection (Scotland) Act 2007 defines an adult as someone over the age of 16 years (CYCJ, 2017). Defining childhood, both legally and conceptually, has implications for our understanding of what a child is and what distinguishes a child from an adult,

similarly determining our understanding of what is an appropriate response to their behaviour and in which system that behaviour is most effectively dealt with (Piper, 2001).

Youth justice policy and practice principles exist on a continuum. At polar ends are youth justice systems which aim to either promote welfare or punish behaviour. In the case of a system which promotes: the welfare of young people involved in offending, based on the understanding that their behaviour is linked to needs and due to their age they have a diminished capacity to affect their circumstances. Conversely, in a system which punishes there is the contention that young people do have some degree of independent agency and as such should be held responsible for harm which has been attributed to them following full legal enquiry. In reality, no jurisdiction operates under such ideal types merging welfare principles of *parens patriae*⁹, the state's responsibility to care and protect children (Arthur, 2017), with judicial principles of *proportionality of imposition*, which requires the state to intervene proportionately to the offence to protect the public, promote rights, and deter serious offending (Morgan, 2008).

Generally accepted waves of conceptual, and subsequent policy and practice shifts, occurred in democratic nations around 1900, 1960 and 1990 (Smith, 2018). The latest phase under which youth justice policy has been placed is actuarial which abandons either principle of welfare or justice in place of efficiency and expediency. The conceptual development of youth justice frameworks will be outlined below in order to situate current youth justice discourse in Scotland, and in chapter 6 to examine the practice particular to this research, EEI. It is also important to consider that just as no system represents an ideal model there is likely to be discrepancies between principles, policy and practice.

⁹ The sovereign, or any other authority, regarded as the guardian or legal protector of citizens considered to be unable to protect themselves. Now also: the principle that political authority carries with it the responsibility for such protection. Oxford Dictionary

3.2 From welfare to justice

The conceptual and actual separation of children in society developed during the early 20th century. Initial reforms aimed to promote the welfare of young people involved in offending, based on the understanding that their behaviour is linked to needs, and due to their age, they have a diminished capacity to affect their circumstances. Welfare principles led to the notion of *parens patriae*, the state's responsibility care and protect children, initially to enact the parental responsibility to nurture, discipline, and educate where children had been failed by their families (Arthur, 2017). Later this developed into the state requiring equitable powers to protect children from themselves, which required a high degree of procedural, and policy flexibility and discretion in order to make decisions based on the best interest of the child (Arthur, 2017). The principles of acting in a child's best interest, with the primary consideration being the welfare of the child, would from the early 20th century form the central principle underpinning separate youth justice systems (ibid). Welfare influenced the practice of youth justice in two important areas: firstly, regarding how young people are treated; and secondly, how their welfare needs were met (Raymond, 2010). The welfare ideology assumes offending is a result of socio-economic difficulties and associated situations; and that young people cannot be held responsible for their behaviour because of their inability to change the disadvantaged circumstances they find themselves in (Muncie, 2005).

The welfare approach faced criticisms including the potential to deny young people full legal rights and increase potentially unwarranted intervention in their lives due to 'repressive welfarism'. This resulted in 'double jeopardy' for young people as they are punished for their behaviour and their background (Muncie, 1999). Questions have also been raised about the moral judgements influencing decision makers in welfare systems, resulting in some groups being excluded from the accepted welfare domain, for example, young female offenders and older young people (ibid).

Muncie (1999) presents a number of criticisms such as the punitive argument that the welfare approach is simply 'too soft' on young people who commit crime, that it fails to 'teach a lesson' and results in further offending. Another concern is that the emphasis on welfare leads to the state unnecessarily intervening in young people's lives on account of their wider socio-economic or familial circumstances. This is also referred to as 'double jeopardy': where young people are reprimanded both for the crime they have committed and background they come from (Muncie 1999). This state encroachment on the disadvantaged can create an up-tariffing effect, where young people are propelled through systems, not due to behaviour necessarily, but from being known to various agencies and exhausting intervention options (McAra & McVie, 2010; McCarthy, 2010). Hallet (2000) argues the welfare approach lacks proportionality and has the potential to allow indeterminacy in disposals, where young people with similar 'deeds' are given different interventions based on their varying 'needs'. In this sense young people have the potential to receive the '*worst of both worlds*': "*neither assured the protection accorded to adults nor the care and protection granted to children*" (Hallet, 2000, 36).

The '*back to justice*' or '*just deserts*' movement developed as a critical response to the apparent failures of welfare, as well as a position which views the sentencing and punishment of offenders as an inherently 'good thing'. Crime committed by young people is seen as rational choice under this approach, and young people have capacity to both take responsibility for their actions and accept the consequences. As such the justice system is created to deter and punish criminal activity by young people proportionate to their offence (McAra, 2010).

Within the justice approach, underlying political discourses include liberal political theory, authoritarianism, and conservatism (Fergusson, 2007) characterised as a period of retraction from penal welfarism towards increasingly neo-liberal governance ideals of individual responsibility (Arthur, 2017). Although not in complete rejection of the importance of addressing children's needs, those who support the justice approach argue that 'needs' of young offenders are best dealt with in the assigned systems, out with the criminal justice arena (Asquith, 2002). In

terms of dealing with young people who offend the justice approach views children as individually responsible and culpable for their actions (Lockyer & Stone, 1998). Intervention, therefore, should deter and punish young people (McAra, 2010) to protect and reassure victims and the public, groups which have been overlooked in the welfare model (Lockyer & Stone, 1998), and prevent reoffending.

In opposition to the welfare approach, which takes the position that children should be treated as such despite actions taken by them or against them, the justice stances views young people as *'offender first, child second'* (Goldson, 2000). This stems from the understanding of involvement in criminality as a rational choice (McAra, 2010) and young people as rational individuals (Barry, 2010). They identify them as rights bearers and rights claimants and criticise the welfare approach for the denial of basic legal rights in terms of criminal law. A major criticism of the welfare approach and significant justification for the justice model is that, *"Children's rights received insufficient protection in systems based on welfare"* (Asquith, 2002, 276). The standard of proof is replaced and determined largely by the socio-economic status of individuals and families as more weight is given to the perceived 'needs' of an individual than criminal responsibility (Birckhead, 2012). Justice proponents would argue this denies young people the full legal rights afforded to them in a justice system. Moreover, they question the theoretical validity of evidence and principles of the welfare approach and its ability to truly assure *'the best interest of the child'* (Asquith, 2002). Viewing young people as a separate entity and dealing with their behaviour in discretionary informal systems had been argued as unfair and the solution should be equal treatment of youth involved in offending under the law.

3.2.1 **Beyond Welfare and Justice**

While welfare and justice have been characterised as the polar ends of the justice spectrum through analysis of the youth justice system, other paradigms, some traceable to welfare and justice, can be found.

In addition to welfare and justice Cavadino and Dignan (2006) identify three additional models: minimum intervention; restorative justice; and neo-correctionalism. Minimum intervention is derived from theories of labelling (discussed further in chapter 2), which argues that involvement in the criminal justice system makes it harder to desist from future offending, take part in pro-social activities which could support desistance, and has the additional potential to re-inforce delinquent identities (ibid). Negative outcomes resulting from system contact also extend to welfare interventions as, irrespective of philosophy, the potential to label and stigmatize persists and intervention should therefore be minimised as far as possible (Case, 2018).

Restorative Justice seeks to support those effected by crime, including victims, offenders and their communities, rather than viewing crime as a threat to public order and prosecution in the public interest as with traditional justice perspectives (Cavadino and Dignan, 2006). This model views young people as shaped by their communities and, while being rights holders, they are also viewed as responsible for harm caused and holding the capacity to take responsibility for their actions (McAra, 2010).

Finally, neo-correctionalism is similar to the justice approach in as far as it holds individuals responsible for offending, where punishment aims to target personal deficiencies. Prevention of crime, through early identification is extended to welfare realms marked by 'pre-delinquency' incidence. Cavadino and Dignan (2006) also note that efficiency of the system becomes a priority under this model, through joint working, timely and effective intervention.

While acknowledging that "youth justice systems are complex architectural phenomena", McAra (2010, 287) identified the four prominent paradigms in contemporary youth justice as just-deserts; welfare; restoration (all discussed above); and actuarialism (discussed in section 3.4).

There are however, current challenges being presented to the welfare-justice debate which propose critical constructions of youth justice models. One such model is the

'Children First, Offenders Second' approach (Haines & Case, 2015) which surpasses traditional dichotomous paradigms. The priorities include notions of normalisation, inclusion and children's rights' and their reinforcing principles such as child friendly treatment, diversion and system management; promotion of pro-social behaviour and outcomes; evidence based partnership; and redirecting the responsibility from children to adults (Case, 2018).

3.3 Actuarialism

An era of a 'New Penology' was identified by Feely & Simon (1992) as embracing an evidence-based, 'what works' approach. In this approach crime is accepted as an inevitable aspect of modern society, in pursuing neither punishment nor rehabilitation the principal aim is to effectively manage crime, or "*make it tolerable tough systematic coordination*" (Feely & Simon, 1992, 453). Developed and expanded to become known as actuarial justice (Feely & Simon, 1994) this approach abandons traditional concerns of welfare and justice outlined in section 3.2.1, to concentrate on the efficient and expedient control and management of offending: "*an era of efficient apathy*" (Kempf-Leonards & Peterson, 2000, 72).

"[Actuarialism] dispenses with concerns about the meaning or motives behind offending, concentrating instead on technologies of risk minimisation and the elimination of potential threats to social order" (Smith, 2006, 93).

The new theoretical model is not motivated by concerns regarding outcomes, whether they are rehabilitative or retributive, but by efficient crime management. For Garland (1996) the emphasis on the system is *outputs* rather than *outcomes*, what it *does* rather than what it *achieves*:

"These techniques are not merely vehicles for more effective implementation of policy, rather, they are becoming the actual objectives of policy. If the means have become the end, then there is reason for concern" (ibid, 458).

Kempf-Leonards & Peterson (2000) apply the actuarial framework to the youth justice sphere, providing examples of varying degrees of influence in areas such as: pre-hearing detention, community based services and cases screening to

interventions focused on family influence and accountability. Drawing on the work of Stanley Cohen, Kempf-Leonards & Peterson (2000) scrutinise the varied goals of community based interventions and their potential to view all 'at-risk', leading to earlier and more intense labelling and stigmatization of more young people. They conclude that one of the most harmful aspects of actuarial justice is the reconceptualization of relocation into the system as effective, rather than failure (ibid).

3.3.1 Risk

As a mode of intervention, actuarialism is concerned with ability to predict and act upon risk - replacing traditional justice pursuits with that of prevention and early intervention. The result is the,

“use of actuarial assessments as though they were clinical assessments, that is, they are using descriptions of the characteristics of populations of offenders to predict the likelihood of reoffending of individual offenders” (Hudson, 2003, 49).

Youth justice has been criticised as becoming dominated by the management of risk, characterised by actuarial principles and obsessed by the potential to replicate and apply programmes to similar populations (Muncie, 2009; Case, 2010). *“Developmental crime prevention targets the potential for the individual to become criminal”* (Lab, 2015, 158) and is based on the understanding that criminality or deviance is determined by a range of factors which once identified can be treated. A range of factors across a number of domains including: individual, peer and family, and school and community, have been identified through the positivist investigation of individual outcomes and often through longitudinal studies. Risk factors have been shown to be able to indicate the likelihood, frequency, and duration of offending. Protective factors have also been identified which serve to decrease the probability of offending by encouraging desistance. This has led to 'risk-focused prevention' in which preventative methods designed to counteract key risk factors for offending are based on the 'risk factor prevention paradigm' (RFPP) (Farrington, 2005). Although

not without criticism, risk factors significantly suggest issues which are increasingly prevalent in the lives of young people who offend (Rutter, 1980; Farrington, 1996; Armstrong et al, 2005).

There are a number of concerns and criticisms raised in the literature regarding the prominence of a risk based approach in dealing with crime. Case (2010) argues that although statistically significant, risk factors are not necessarily '*predictors*' or '*causes*' of criminality. To expand, the argument could be made that there are many young people who experience the risk factors identified to predict offending, but do not offend. Further, Homel (2005) notes that although risk factors are statistically accepted, our understanding of the '*causal processes*' by which they result in offending behaviour can be attributed to a range of contradictory theories of the nature of criminality, suggesting the risk factors may be a false negative¹⁰. This leads to the conclusion that risk factors are inter-related and potentially symptoms of wider risks rather than causes of offending. A major criticism of the use of risk factors in the prevention of crime is the predisposition to focus on the deficits of individuals, families, and communities without presenting the impact of the wider socio-economic structures which influence individual circumstances (Goldson & Muncie, 2006). This is a particular concern of Smith (2006, 92), who fears risk factors have become an "*accepted wisdom*" which ignore a number of legitimate concerns, such as wider socio-economic structural inequality and circumstance.

A further criticism stems from the epistemological foundation of the prevention paradigm and its reliance on statistical correlation. Case (2010) cautions against the moral and ethical concerns of targeting individuals before criminal behaviour occurs through a '*pre-emptive strike*', which supports the concern raised by McAra & McVie (2007) that the '*usual suspects*' will be included in systems despite the trajectory of their offending creating an up-tariffing effect. Despite the criticisms it is proposed by supporters of the RFPP that although the '*chains of causation*' may not be fully

¹⁰ a test result that is incorrect because the test failed to recognize an existing condition or finding.

understood, undertaking preventative work based on risk factor research can minimise young people's experience of risk (Farrington, 2000 in France & Utting, 2005).

3.4 Philosophical and Policy Resonance

Prior to discussing the influence of these frameworks on the contemporary Scottish youth justice system, it is important to briefly acknowledge the complex relationship which determines the level of conceptual resonance within policy and practice. Policy is a complex concept, which can range from a process to an outcome (Hogwood & Gun, 1984). While not the focus of investigation in this research, it is important to acknowledge there are multiple and complex influences through which the transfer of conceptual frameworks reach policy and practice and similarly, the experience of such policies and practice can differ between recipients (McAlister & Carr, 2014). As this chapter shows discourse, practice and experience can be simultaneously complementary and contradictory: welfarist systems can be infiltrated by more punitive measures (McAra 2006, Piacentini & Walters, 2006) and risk can be used as a justification to curtail rights (Muncie, 2008). Fergusson (2007, 182) notes the complexity of claiming the *reality* or *essence* of policy as it permeates multiple levels including: "*policy as rhetoric, policy as codification and policy as the 'lived experience' of implementation*".

While fully acknowledging the multiple and complex influences on *street level bureaucrats*¹¹ decisions making (Lipsky, 1980) in terms of practice cultures, one of the strongest themes which emerged through interviews and observations and can be seen throughout this research, is the value and importance of policy in the practice of EEI.

¹¹ Lipsky defines street level bureaucrats as 'public service workers who interact directly with citizens in the course of their jobs, and who have substantial discretion in the execution of their work. (1980, p.3) therefore occupying a unique and influential position in the process of implementation of policy.

This chapter shows practice of EEI is devolved to Local Authorities with little in the way of national guidance. It is possible that with the lack of direct oversight of EEI practice, policies and principles become a unifying and central concept in the absence of strict bureaucratic processes and formalities through negotiated local practice (Field, 2015). EEI policy and practice guidance materials are relatively non-prescriptive and in themselves are heavily based on principle with the aim of uniting professionals from varying perspectives in a common goal (Field, 2007). It is reasonable to assume that in the absence of any particular governing body, co-ordinated control of practice, the guiding policies and principles are prominent in participants' responses. These were identified by participants in this research as fundamental to the work carried out under the auspices of EEI and central to its success. Additionally, these research findings emerged in relation to discourses at multiple levels of policy as rhetoric, practice, and experience supporting their interdependent and mutually reinforcing nature. This would support the overall theory of Cohen (1985) that while on the part of EEI practitioners intentions are usually benevolent, they are potentially used as a justification for practice which may have negative unintended consequences for young people involved in offending at a systems level.

3.5 Youth Justice in Scotland

The sections above (3.2-3.5) provide an account of generalised transnational conceptual influences across broad social-justice systems and institutions. This section will look specifically at the evidence of the conceptual underpinnings of youth justice in Scotland more specifically. Part 2 of this chapter (section 3.7-3.9) will look at these issues again in specific reference to the youth justice practice under study in this research, Early and Effective Intervention.

Scotland has always operated a separate legal system, and in terms of youth justice distinctly embraced the welfare ethos in relation to young people involved in offending behaviour. The Kilbrandon Report in 1964, which formed the basis of the

Social Work (Scotland) Act 1968, set out a single system where the welfare of children would be protected, including children involved in offending, in the understanding that their behaviour was an indication of need itself. Embedded within the report was The Children's Hearing System (CHS), which still operates largely as outlined by Kilbrandon despite being updated, most recently in Children's Hearings Scotland Act 2011 which '*revised and modernised*' the ground for referral to include grounds such as witness to domestic abuse and forced marriage.

A welfare criteria of 'needs' rather than 'deeds' is central to the principles of the Children's Hearing system. The committee was unique in its desire to separate the adjudication of guilt and the consideration of needs and responses to needs, with the decision of guilt being the isolated remit of the court (Lockyer and Stone, 1998). The welfare based system would subsequently view young people referred as in need of a caring response, as whether involved in offending or subject to a child protection concern, both had been failed in their upbringing and were both similarly victims in this way. In acknowledging the shared and similar adversity experienced by both groups, the hearing system was established to act in the child's best interest (ibid). The welfare principle is enshrined in legislation in rule s.25(2) of the Children's Hearing (Scotland) Act, placing welfare as fundamental to dealing with every case, both offending and care and protection. The principles of decision making, as stated in the act, are as follows:

- The need to safeguard and promote the welfare of the child throughout the child's childhood is the paramount consideration (s25)
- The child must be given an opportunity to express a view and this view must be taken into account in line with the child's age and maturity (s27)
- An order is only to be made if it is considered better for the child than if no order was made (s28).

The safeguarding and promotion of welfare is of paramount consideration in all cases, with the more recent exception of those deemed to pose a serious risk to the public where welfare is a primary consideration (Norrie, 2013).

In applying these principles the members of the children's panel, lay volunteers from within the community, must decide on whether supervision from Social Work services is required through a compulsory arrangement to ensure the protection, care, guidance, or treatment in the best interest of the child. For some time the 'Scottish approach' has been renowned for its uniquely welfarist commitment, with Muncie & Hughes (2002, 8) describing the Children's Hearing System as "*one of the few bastions of a welfare-based youth justice system throughout the world*". However, the fundamental benevolence of the welfare ethos has been questioned by many as potentially the "*iron hand in the velvet glove*" (McDiarmid, 2007, 151).

In comparison to analysis of the youth justice systems in England and Wales, Scotland has received little investigation in terms of its conceptual underpinnings, however, McAra (2017) notes Scotland is not devoid of adopting more actuarial, punitive and restorative principles which have at points presented challenges to the earlier established welfare ethos. Scottish criminologists McAra & McVie (2015) have characterised youth justice in Scotland as largely comprising of three distinct periods: the triumph of welfare; a period of 'detartanisation'; and finally re-tartanisation'. A distinct Scottish approach between 1968-mid 1990s influenced by the Kilbrandon ethos represented a child-centred, welfarist agenda able to sustain divergence of aims in England and Wales due to a strong civic culture and support of elites within the justice system (McAra & McVie, 2010).

The mid 1990s to 2000s saw a period of convergence of Scottish policy to that of England and Wales of 'popular punitivism', characterised by Anti-Social Behaviour Orders (ASBOs) and the piloting of a youth court (Piacentini & Walters, 2006). In addition to this, there was a move to more managerial styles of working, including multiagency youth justice teams and increased focus on risk and responsibility (McAra & McVie, 2011). In direct opposition to the supremacy of the welfare principle, conditions for supervision orders under the Children's Hearing System (CHS) were superseded by risk principles and interventions may be increasingly punitive and can be superseded by concerns for reasons of public protection (McAra, 2007; McDiarmid, 2007).

Finally, 2007 to present (2017/18) represents a period of ‘compassionate justice’ (McAra, 2017). Initial documents such as ‘Preventing offending by Young People’ (Scottish Government, 2008) and ‘Getting It Right For Looked After Children And Young People Strategy’ (Scottish Government, 2015d) restated Scotland’s commitment to the welfare approach, focusing on the holistic needs of the child and reaffirming the commitment of agencies out with the traditional justice arena; however also following a just deserts model which emphasised proportionality and responsibility, stating victims and communities were key stakeholders (McAra & McVie, 2015). Prevention featured heavily as a way of supporting desistance, drawing on multiagency intelligence and resources to intervene early in the offending trajectory. In 2011 – 2017, Getting It Right for Every Child (GIRFEC) legislation and the Whole System Approach (WSA) to young people who offend policy have cemented diversion¹², alongside prevention underpinned by welfare principles, as key to the youth justice system in Scotland.

3.5.1 Getting It Right for Every Child

The Scottish Government has a vision where Scotland is the best place for a child to grow up: meaning they are supported to be *“successful learners, confident individuals, effective contributors and responsible citizens”* (Scottish Government, 2007, 9). To do so the Government promoted a model, Getting It Right for Every Child (GIRFEC), to underpin all work with children and their families who are in need of support. GIRFEC aims to accomplish:

- *“Better outcomes for all children*
- *A common co-ordinated framework across all agencies that supports the delivery of appropriate, proportionate and timely help to all children who need it*

¹² Diversion refers to the decision to deal with criminal activity either out with the formal justice system, or, if brought within its domain, dealt with leniently following a simplified, relatively non-stigmatic procedure (Morgan, 2008).

- Streamlined systems and processes, efficient and effective delivery of services focussed on the needs of the child
- A common understanding and shared language across all agencies
- A child-centred approach
- Changes in culture, systems and practice across services for children
- More joined-up policy development with GIRFEC in the delivery mechanism of all policies for children -and policies for adults where children are involved” (CYCJ, 2017, 5)

Many of the principles of GIRFEC were put on a legislative footing with the passing of the Children and Young People (Scotland) Act, 2014, which formalised an approach to supporting the wellbeing of all children in Scotland.

Wellbeing is central to the GIRFEC approach, developed from an ecological model of development, acknowledged to be influenced by all aspects of a child or young person’s life in a broader sense than traditional notions of child protection¹³ or welfare (Scottish Government, 2018). Positioning wellbeing as the principal aim of the system created and required a shared understanding, language and approach across varying agencies of support. Indicators, known by the acronym SHANARRI, were developed to measure wellbeing and assess risk in order to promote and facilitate rights and a strength based approach (See table 3.1).

Table 3.1 SHANARRI Wellbeing Indicators (Adapted from Scottish Government, 2012, 3)

SHANARRI Wellbeing Indicators	
Safe...	protected from abuse, neglect or harm
Healthy...	experiencing the highest standards of physical and mental health, and supported to make healthy, safe choices

¹³ Child protection services will continue to protect children and young people at risk of significant harm in line with statutory child protection measures.

Achieving...	receiving support and guidance in their learning – boosting their skills, confidence and self-esteem
Nurtured...	having a nurturing and stimulating place to live and grow
Active...	having opportunities to take part in a wide range of activities – helping them to build a fulfilling and happy future
Respected...	to be given a voice and involved in the decisions that affect their wellbeing
Responsible...	taking an active role within their schools and communities
Included...	getting help and guidance to overcome social, educational, physical and economic inequalities; accepted as full members of the communities in which they live and learn

In keeping with the extension from welfare to wellbeing, other central GIRFEC principles include child-centredness and multiagency decision making, which represents a hybrid child welfare model which promotes early intervention in wellbeing concern.

Firstly, is that of ‘child centeredness’- which stipulates “...*anyone providing that support puts the child or young person – and their family – at the centre... at the heart of decision making...*” (Scottish Government, 2012, 3). This is a reflection of adoption of the rights movement which acknowledges:

“Children do have some degree of agency and choice (see Davies 2011); and that to assume otherwise is to assume the inherent passivity and determining developmental plasticity of children.” James (2013,15).

Secondly is an inherent understanding that “*practitioners need to work together to support families... This means working across organisational boundaries...*” (Scottish Government, 2012,3). The golden age of partnership working, despite being introduced earlier in the Health and Social Care fields, was the 1990s. In Scotland a specific vision of public service delivery was outlined by the Christie Commission (2011), which renewed the importance of closer partnership working to ensure efficiency and cost effectiveness. Acknowledging the point made by Wilson & Pirrie

(2000, 8) that “*changes in professional practice do not occur in isolation: they are invariably located in a social and political context*”, there are a number of rationales for the partnership approach and its adoption within UK social policy, including past failures in child protection¹⁴; potential cash savings in terms of efficiency; and in acknowledgement of the complexity and holistic nature of behaviour.

Finally, GIRFEC is based on developmental theories about child wellbeing which identified that early life experiences impact later development and behaviour. GIRFEC acknowledges that the timing of service intervention can affect the potential positive impact on behaviour and development encouraging agencies to “*...take early action at the first signs of any difficulty – rather than only getting involved when a situation has already reached crisis point*” (Scottish Government, 2012, 3). The earlier a problem is identified and tackled the more likely a young person will engage and positive outcomes will be achieved. GIRFEC promotes the implementation of a single plan for each child which links support and activities to positive outcomes for the child, regardless of the number or range of agencies involved in a child or family’s life, and in partnership with families and communities. It describes the team involved in a child’s life to promote wellbeing as a ‘*network of support*’, which for most children will include family and universal services almost exclusively. As shown in figure 2.1, only when a child’s needs are not being met within the default ‘network of support’ should other agencies, working from within universal services in the first instance, become involved.

¹⁴ Reports following failures to safeguard children such as Victoria Climbié (Laming, 2003) and Caleb Ness (O’Brien, 2003) identified that professionals working in silos, including failing to share information, resulted in children’s tragic deaths. In these high profile cases failures by agencies to work together and share information was identified as a determining factor in children ‘*slipping through the net*’ (Percy-Smith, 2005) and served as an impetus for agencies to work together at national and local policy and practice levels.

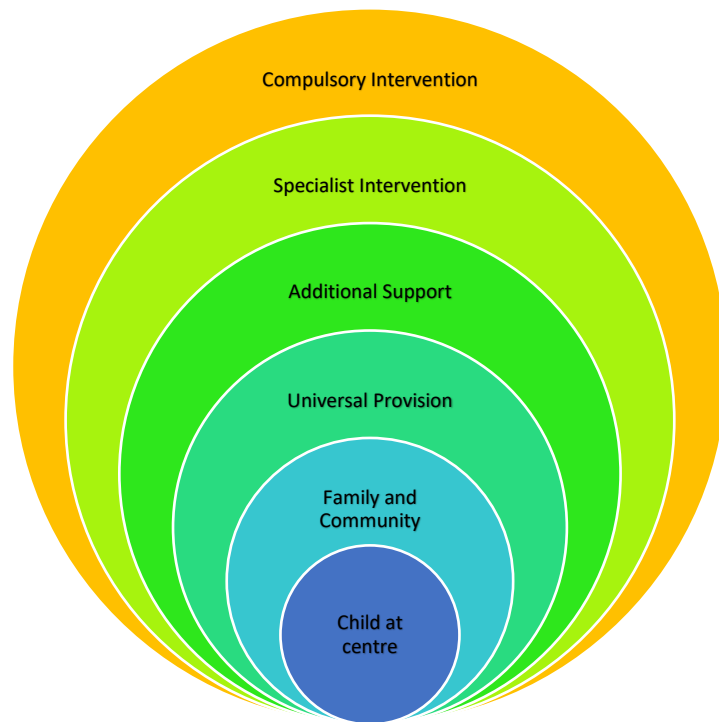


Figure 3.1 GIRFEC Network of Support

While GIRFEC represents a complex and ambitious attempt to nationally prioritise the wellbeing of young people, there are inherent contradictions in its underpinning, which having gone unacknowledged or challenged will arguably lead to contradictions in practice (Tisdall & Davis, 2015; Coles et al, 2016). For Tisdall & Davis (2015, 221) there is an inherent tension in the government rhetoric between children’s rights and wellbeing frameworks which:

“on the one hand...[hold] more parentalist, traditional conceptualisations of children based on need and vulnerability...On the other hand, children should be listened to and have their views heard and their rights protected”.

While GIRFEC is based on an ecological understanding of childhood development; this can be applied without an understanding and appreciation of rights and challenging the unequal power dynamics which lead to professional led intervention (Davis & Smith, 2012). Where the holistic approach is not considered in this wider context, it is often criticised as not going far enough to promote rights, minimum intervention

and social justice (Davis & Smith, 2012; Tisdall & Davis, 2015). The realisation that a wellbeing framework does not ensure the upholding of children's rights can be most obviously seen from the Supreme Court ruling on the Named Person Legislation¹⁵. The Named Person service builds on GIRFEC, and while not disputing the principles which underpin the provision, the UK Supreme Court ruled that the Named Person information sharing provisions were in breach of the rights of children and families under Article 8 of the European Convention on Human Rights and could result in disproportionate interference in practice via unclear information sharing practices (Kidner, 2016). The undefined nature of wellbeing means thresholds for assessment are susceptible to considerable interpretation (Coles et al, 2016).

3.5.2 Whole Systems Approach

Building on GIRFEC, the Scottish Government has continued work to support a consistent approach to working with children involved in offending and anti-social behaviour in the form of a Whole System Approach. The WSA has been developed using a convincing evidence base which shows that increased consistent and earlier involvement in statutory systems, such as the CHS despite its welfare ethos, relates to prolonged criminality. In addition, diversion from such systems through early intervention and addressing needs and deeds in the community rather than institutional settings, produces more positive outcomes (McAra & McVie 2007, in MacQueen & McVie, 2013). The WSA consists of three strands, illustrated in figure 2.2: firstly, EEI which aims to reduce unnecessary referrals to the CHS and deal with lower tariff offending which does not require compulsory measures; secondly, Diversion from Prosecution, which aims to redirect children from formal systems such as Procurator Fiscal (PF) and Courts; and finally, Reintegration and Transitions, for

¹⁵ The role of the Named Person means that there can be early intervention to promote children's health (Article 24) respond to special needs (Article 23) and help children towards fulfilling their educational potential (Articles 28, 29).

www.scotland.gov.uk/Resource/Doc/1141/0109328.pdf

children who are returning to their communities following a period in secure care or custody.

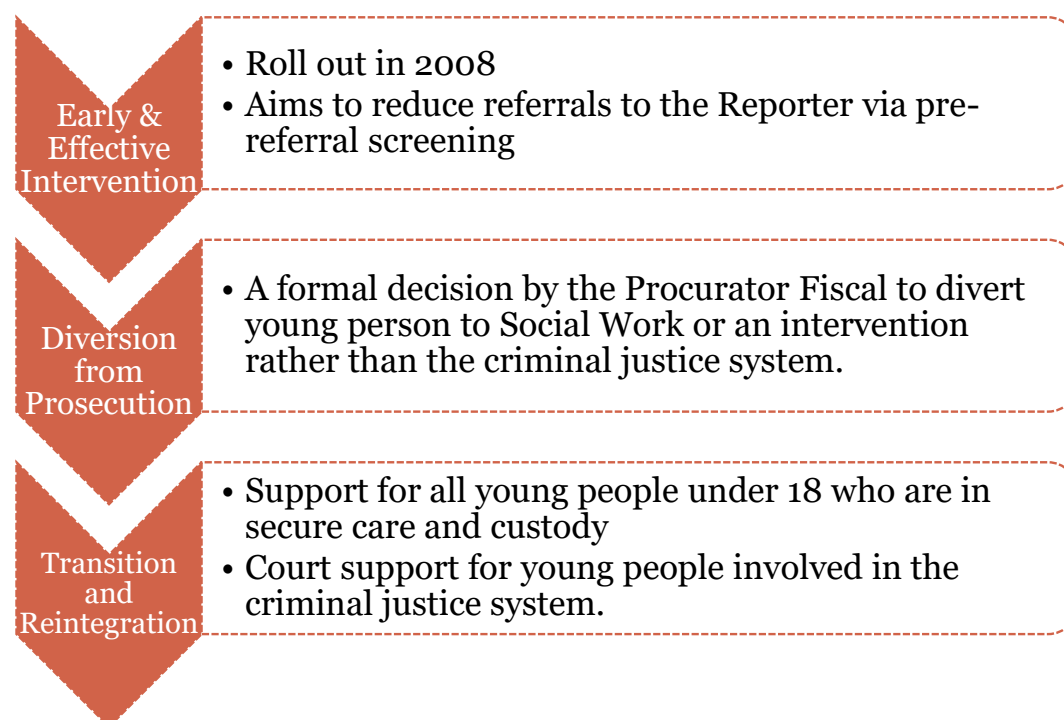


Figure 3.2 Strands of the Whole System Approach

The WSA operates in every Local Authority in Scotland across partner agencies to ensure all children accessing the youth justice system, at any stage, are protected by an approach which puts their needs at the centre. A recent WSA evaluation (Murray et al, 2015) found that partnership working, a cornerstone of the WSA, and specifically the sharing of information, was facilitated through WSA and it may have a positive effect on the outcomes for young people involved. Moreover, and similar to earlier findings, the evaluation found practitioners express a clear commitment to the principles, goals and values of WSA (*ibid*).

A high degree of policy flexibility is associated with the WSA model for practice to suit local partnership arrangements and demographics. Guidance such as the Core Elements (2015) provides a minimum standard for EEI practice which aims to unify increasingly diversifying practice. Bodies such as the National Youth Justice Advisory

Group (NYJAG) with the support of workforce development centres such as Centre for Youth and Criminal Justice (CYCJ) can advise and support workforce development by providing practice support, disseminating best practice and provide guidance. Preventing Offending by Young People – Framework for Action (Scottish Government, 2008) document was a significant shift towards prevention and early intervention, as undertaken by the WSA. Concerns regarding inconsistencies in practice and long term sustainability of the approach were identified by the WSA evaluation (Murray et al, 2015) and later addressed in the Youth Justice Strategy update (Scottish Government, 2015a).

The Scottish Governments Youth Justice Strategy was relaunched in June 2015, outlining three areas for action as: Advancing the Whole System Approach; Improving Life Chances; and Developing Capacity and Improvement. The new strategy has been noted as taking a more clearly defined rights-based stance, acknowledging areas where limited progress has been made; and crucially appointed a ‘Youth Justice Improvement Board’ to oversee its implementation (CYCJ, 2017). A progress report in 2017 acknowledged that while progress had been made in the approach to prevention and diversion, the level of complexity in the lives of the smaller cohort of young people remaining in the system is greater, which has implications for practice (Scottish Government, 2017a).

3.6 Children and Young people in Scottish Youth Justice Systems

This section outlines the statistical information relevant to the age group under investigation in this study which is 8-17 years. In keeping with national and international trends, and similar decreases across age groups, as well as a number of crime types, the level of offending by children and young people in Scotland is decreasing (Eurostat, 2017; Scottish Government, 2017b). Reductions in youth offending can be seen in three areas of offending related statistics: the number of young people referred to SCRA on offence grounds; the number of 16 & 17 year olds

appearing in court; and, the number of young people detained in secure units or other detention facilities (Youth Justice Improvement Board, 2017, see figure 2.3).

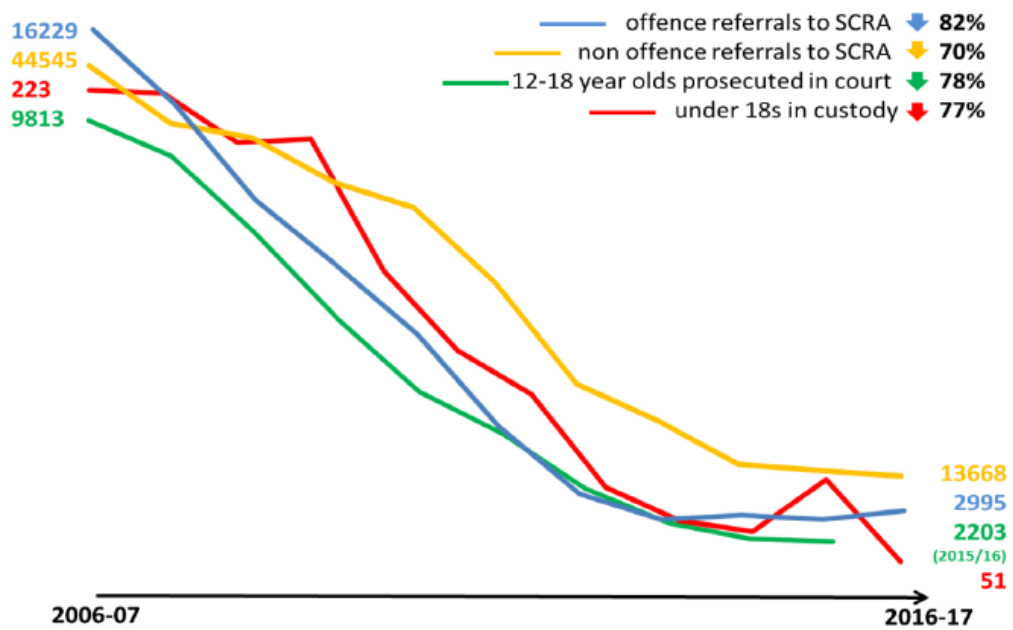


Figure 3.3 Trends in custody, court prosecutions and referrals to the Children's Reporter for children and young people 2006/7- 2016/17 (Adapted from Youth Justice Improvement Board, 2017¹⁶)

The number of children and young people referred to SCRA on offence grounds has reduced by 83% from 16,229 in 2006-2007 to 2,761 in 2015-16(Figure 3.4).

¹⁶<http://www.cycj.org.uk/wp-content/uploads/2017/10/Young-People-in-Custody-October-2017.pdf>

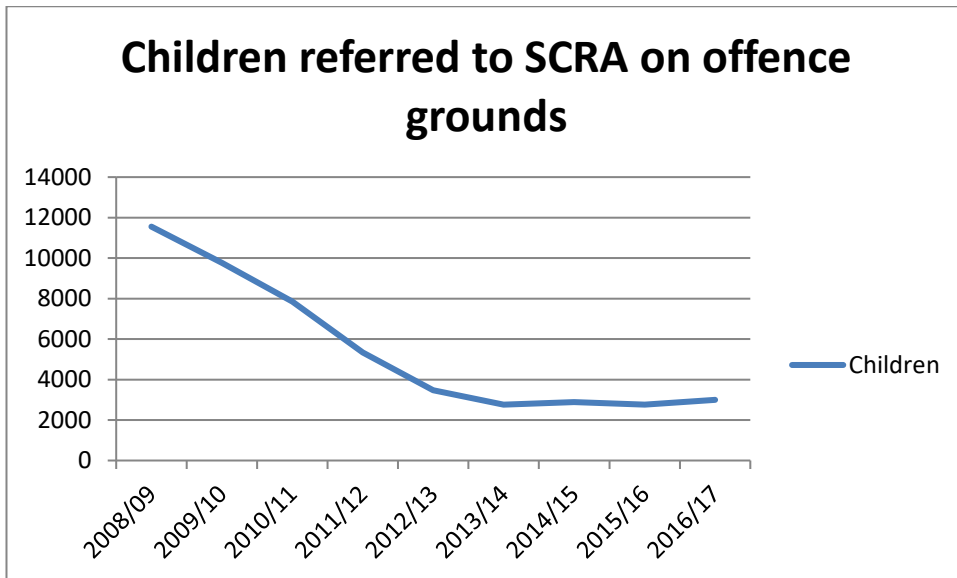


Figure 3.4 Referrals to CHS on offence grounds

Although reductions to SCRA on offence grounds pre-date the roll out of EEI, it is reasonable to suggest they have been significantly influenced by the Scottish Government commitment to the WSA. The establishment of a new set of procedures is likely to lead to a reduction in referrals to a similar system and is in fact a stated aim of the WSA. It should be noted that the 2016/17 data shows an increase of 7.2% in offence referrals to SCRA since 2015/16 (SCRA, 2017¹⁷). The potential reasons underlying this increase, the prospect of this to be sustained, or for an ongoing increase, are difficult to establish. These reductions, however, can be coupled with high numbers of young people being diverted through WSA systems. Revisions to data on EEI suggest an exponential increase in the use of Pre-Referral Screenings of 5074% in referrals from 2008-09 to 2014-15¹⁸(figure 2.5) (Scottish Government, 2017b).

¹⁷ <http://www.scra.gov.uk/wp-content/uploads/2017/08/SCRA-Online-Statistics-2016-17.pdf>

¹⁸ <http://www.gov.scot/Publications/2017/01/6376/downloads#res512934>

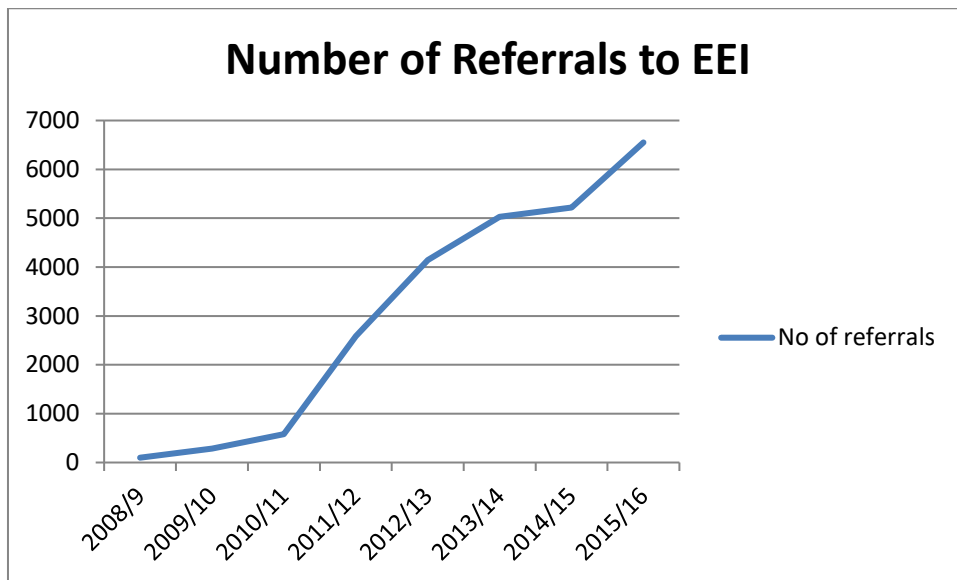


Figure 3.5 Number of EEI Referrals (Adapted from Scottish Government, 2017b)

Criminal Justice Social Work statistics (Scottish Government, 2015c) reveal for the year 2013-14, 662 16-17 year olds were engaged with through diversion from prosecution orders, another integral strand of the WSA.

Interpreting trends in criminality is complex and while they cannot be reliably attributed to any one factor, cultural, environmental, and systems issues are likely to all contribute. Whyte (2015) and Murray et al (2015) tentatively identify the potential impact of the WSA in relation to the decreasing trends. McAra and McVie (2017) also consider the potential of a 'displacement effect' where the situational context of youth offending and our 'policing' of that space has shifted from the community to cyberspace. It is also worthy to note that while populations of young people involved in the youth justice system are statistically decreasing, there is concern and evidence to suggest that they are increasingly drawn from the most vulnerable and traumatised areas of society (Vaswani, 2017; Nolan et al, 2017; McAra & McVie, 2017).

PART 2: EARLY AND EFFECTIVE INTERVENTION

This section of the literature review will critically analyse the current understanding of EEI both in terms of its conceptual underpinning, practice, and policy. The section will provide an overview of what is currently understood in terms of EEI practice from evaluations, policy documents, and primary research conducted as part of an initial scoping study for this research. Analysis of the conceptual underpinnings of EEI will also follow on from section part 1 of this chapter on youth justice frameworks more generally.

EEI is a multiagency approach to youth offending which aims to provide efficient, proportionate, and timely interventions to young people who offend. It circumvents the use of the CHS as the initial formal response to offending by young people, which now predominantly deals with issues of child protection and welfare and anecdotally more serious offending. Youth justice policy in Scotland, as elsewhere, is a landscape informed by changing evidence, practice, politics, and ideology. The 'Preventing Offending: Getting it right for children and young people' strategy (Scottish Government, 2015a) prioritised the advancement of the WSA, of which EEI is integral, making the area of study a consistently changing landscape. The role of EEI, as an offender management process; a way of addressing the needs of young people who offend; or as a process for accessing appropriate interventions is unclear in both policy and practice and therefore an important area for this research to address.

EEI has been chosen in this research as an example of multiagency practice within the field of youth justice. It serves to provide insight and learning, through research and reflection, into possible best practice working between agencies to ensure the best outcomes for children involved in offending in Scotland. This section describes EEI as defined in policy and practice documents, supplementing this with the research findings of Phase 1 of this research which involved a scoping study on the practice of EEI across Scotland. Thereafter the conceptual underpinnings are reviewed, as well as highlighting concerns raised through academic research as to the general approach.

3.7 Policy development

Early and Effective Intervention (EEI) is a partnership decision making process which aims to engage with young people who are involved in low level or early stages of offending in order to prevent further offending. Through pre-referral screening mechanisms, unnecessary referrals to the Children's Hearing System, where compulsory measures are not required, are minimised and a more proportionate, timely, and effective intervention can be sought. The decision making process and the extent of agency involvement varies between local authorities in Scotland.

The importance of universal responses to the early identification of needs is central to all GIRFEC developments (see section 2.2). These considerations in relation to EEI can be traced to 'A Framework for Action - Preventing Offending by young people' (Scottish Government, 2008) which aimed to embed the principles of GIRFEC with regard to young people who were involved in offending behaviour. The framework focused on prevention, early & effective intervention, managing high risk, victim & community confidence, and planning & performance improvement (ibid). EEI would remain a central feature of future policy, prioritised in the updated framework, "Progress (2008-2011) and Next Steps" (Scottish Government, 2012). It forms one of three central strands of the WSA, alongside Diversion and Reintegration and Transitions, which was rolled out nationally in 2011 and its importance restated by renewed commitment and extension in the most recent Government policy, 'Preventing Offending: Getting it right for children and young people' strategy (Scottish Government, 2015a). Practice which would later be identified as and developed to towards EEI as currently understood, was initially practiced within some local authorities under the guise of Pre-Referral Screening (PRS) groups which were devised in response to local concerns around youth crime and subsequent responses. Five local authorities were evaluated on their development from local PRS schemes to EEI services (Consulted Ltd, 2009), and learning applied to the future roll out of EEI under WSA in 2011.

The rhetoric of EEI within the policy guidance has changed over time. The Framework for Action as outlined in Preventing Offending by Young People (Scottish Government, 2008) provides the initial impetus in policy for EEI. Multiagency responses to individual cases were initially directed to relate decision making to the following:

- *"Relate directly to the needs and behaviour of the young person*
- *Take account of impact on others, and make reparation and restoration where appropriate*
- *Support parental and child responsibility*
- *Be appropriate, proportionate, timely and fair"* (Scottish Government, 2008, 10)

Clarification on practice was provided through the Core Elements Framework (Scottish Government, 2015b) which outlined national minimum standards and addressed concerns that local variations were affecting the ability for the objectives of EEI to be met. The Core Elements outlined the main objectives as:

- *"To prevent/reduce offending by children and young people*
- *To respond as quickly as possible to offending behaviour by children and young people*
- *To undertake a multiagency , proportionate and holistic assessment of need and to identify the most suitable response*
- *To provide clear information to children, young people, and families on the purpose of EEI*
- *Where appropriate to keep victims informed of the outcome of the EEI process*
- *For more young people to have their needs met through access to universal services*
- *To reduce unnecessary offence based referrals to SCRA*
- *To ensure that the most appropriate referrals reach statutory agencies thereby freeing up agency resources to focus on higher need/risk cases"* (Core Elements, 2015, 1)

While arguably including more actuarial output based objectives, the rhetoric is notably developed in terms of holistic, wellbeing focused outcomes. The Core Elements are being revised and updated as part of the ongoing commitment to advance the WSA under the 2015 Strategy. Initial evaluations of EEI concluded that the process of screening referrals to ascertain the most appropriate disposal provided a range of benefits for both practitioners and, anecdotally, for young people who offend. Consulted Ltd (2010), on behalf of the Scottish Government, undertook an evaluation of EEI processes in 5 Local Authority areas in Scotland; later in 2011, Fraser & McQueen evaluated EEI specifically in one Local Authority area, Dumfries and Galloway. Findings from both pieces of research suggest that young people's cases are dealt with more efficiently through EEI, specifically, through enhanced levels of information which in turn improves levels of engagement with young people, in comparison to going through the Children's Hearing System. Areas which implemented EEI witnessed more dramatic reductions in the number of young people referred to the Children's Reporter¹⁹, freeing up resources and time of front line staff which could lead to cost savings. Consulted Ltd (2010), expressed concern that evidencing the impact of EEI on improved outcomes for young people could only be done anecdotally. The Scottish Children Reporter Administration (2009) attempted to assess the direct impact of EEI on outcomes for young people without success. The WSA evaluation considered improved outcomes for young people through EEI from the perspective of the professionals involved in the process (Murray et al, 2015), however acknowledged the limitations of being able to reliably assess outcome impact and as such this area remains a significant gap. The most recent evaluation of EEI was part of a wider evaluation of the WSA in 2015, which again found that practitioners believe that the WSA, and as such EEI, provides:

¹⁹ The Children's Reporter is the person who will decide if a child or young person needs to be referred to a children's hearing. Children's Reporters are trained professionals, employed by SCRA, whose who establish whether there are legal 'grounds' and whether a compulsory supervision order is necessary for the child. If so, the Children's Reporter will arrange a hearing for the child.

“improved outcomes for young people through closer multiagency working, better information sharing and strong incorporation of welfarist values in decision making” (Murray et al, 2015, 7).

The evidence from the evaluation to support claims of improved outcomes for children was: superficial, lacking any empirical basis, and devoid of direct engagement with young people. This research project, through the collection of statistics from observations takes initial steps into the collection of descriptive data. In attempting to do so, the research additionally highlights the potential uses and barriers to considering the implications of practice on outcomes for young people referred to EEI. Similarly, an attempt to involve young people in the research was made but as detailed in the methodology chapter (section 4.5.3) was unsuccessful and therefore remains a gap in knowledge which required further consideration for future research in this area.

3.8 Conceptual Underpinnings

This section highlights that three concepts, related to the crime prevention agenda, underpin the practice of EEI in Scotland: prevention, early intervention and diversion. Prevention aims to reduce crime before it happens; early intervention seeks to reduce further offending by intervening early; and diversion aims to divert people who offend from formal systems to reduce harmful effects of system contact on desistance. The researcher argues that EEI has developed through understanding of the evidence which underpins these three concepts, and adapted variants of each to produce a unique holistic approach to the case management of children involved in offending, as illustrated in figure 2.6.

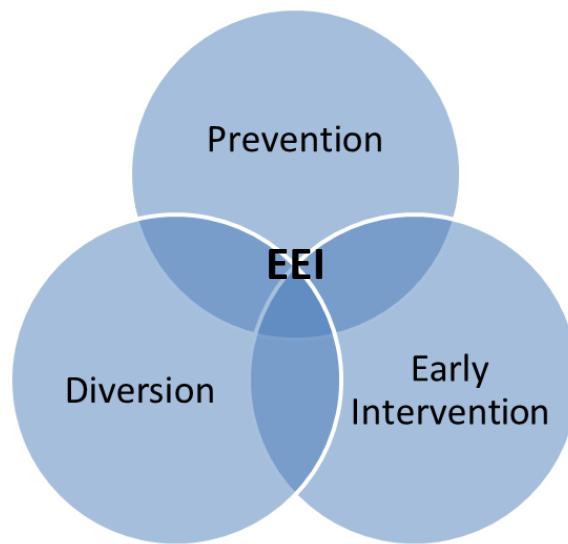


Figure 3.6 EEI in relation to conceptual underpinnings

While the following concepts of prevention, early intervention and diversion are presented separately below, it must be noted that they are terms, which are inherently complex and contradictory. For example, Case and Haines (2015) noted that 'early intervention' does not provide clarification in terms of what constitutes early, what outcomes are proposed to be reduced, and the nature of the intervention. This leaves the potential for early intervention to result in interventionism, where intervention occurs earlier in young people's lives with the potential to fuel net-widening and increased social control, through processes of labelling and stigmatisation. Kelly and Armitage (2015), building on the work of Richards (2014) and others, highlight the multiple understandings of the concept of diversion, which they suggest can mean diversion from prosecution or court; custody; the youth justice system; crime; or diversion into alternative services. As noted by Kelly and Armitage (2015), a lack of clarity can create inconsistency in practice resulting in an interventionist diversionary approach, which may have potentially negative outcomes for young people.

The overarching principles of EEI are that young people who are involved in offending behaviour receive the help they need (*efficient*), when they need it (*timely*) and are only referred to SCRA when measures of compulsion are necessary (*proportionate*) (Consulted Ltd, 2010). Each principle relates to the underlying assumption of each model of crime reduction mentioned above regarding the appropriate management of children who offend.

3.8.1 Prevention and 'Efficient'

Preventative efforts aim to stop a problem from arising (Hayes, 2007). Prevention is often targeted directly at children and adolescents during a period of social, emotional, and behavioural change. Crime prevention was initially adapted from the public health model of prevention which suggests, similar to physical disease, if the known causes are prevented the disease or problem will not develop. Prevention is often categorised using the tripartite public health model consisting of primary, secondary, and tertiary prevention (Lab, 2015). Brantingham & Faust (1976, 284) developed the medical model to progress a conceptual model which can be applied to crime prevention:

“Primary prevention, directed at modification of criminogenic conditions in the physical and social environment at large; secondary prevention, directed at early identification and intervention in the lives of individuals or groups in criminogenic circumstances; and tertiary prevention, directed at prevention of recidivism”.

Using this conceptual model, EEI falls within the secondary prevention as '*criminogenic circumstances*' have already begun to present themselves and intervention is being sought at an early stage.

To promote resilience and desistance from offending, EEI draws on research regarding risk and protective factors to address underlying issues which may affect

an individual's behaviour in order to identify appropriate intervention. Developmental research and contemporary theory has influenced the understanding that adversity in one area of life may impact on behaviour (Whyte, 2016). As risk factors have been identified across a range of policy domains, "*all manner of misbehaviours, incivilities and disorders are being drawn into the problem of crime*" (Muncie, 2001, 142), as are a range of agencies into the crime control arena. This justifies the multiagency response to offending, recognising that identification and intervention of risk factors may be needed from out with the youth justice arena. While no formal risk assessment is undertaken, EEI aims to address early offending effectively by addressing the known cause. Employing a multiagency response should ensure that the range of factors which could be affecting a young person's behaviour are addressed to ensure an efficient response.

3.8.2 Early Intervention and 'Timely'

Early Intervention is a class or subset of prevention (Hayes, 2007). Distinctive from prevention, it aims to alter the behaviour of those on the periphery or early stages of offending behaviour, in order to prevent further offending. For Little (1999), early intervention is not in reference to the developmental age of an individual but rather it refers to the early identification of a social or psychological problem. Early intervention was advocated for on the basis of criminal careers research (Farrington, 1996) which suggests the factors predisposing young people to offend are present in early childhood and are able to be '*nipped in the bud*' before offending becomes more serious (Cross et al, 2002, 153). The Cambridge Study of Delinquent Development (1961-81) found that males convicted early in their lives tended to develop persistent criminal behaviour spanning approximately 10 years, both in terms of official convictions and self-reported offending. It is again focused on the individual behaviour, risk and protection factors, with the presumption that addressing the risks or strengthening the protective factors can support desistance. Blyth & Solomon (2012) identify three underlying principles of early intervention. Firstly, early identification is better at preventing reoffending than rehabilitating someone at a

later stage in their offending career. Secondly, targeted interventions which address individual risks are better than universal programmes of support. And finally, an element of compulsion is necessary for interventions to be effective (*ibid*). Although EEI in Scotland conforms to the first two principles by Blyth & Solomon, it contradicts the third by making EEI a voluntary process, which does not reprimand children for lack of engagement, due to the minimum intervention principle: a foundational commitment of Scottish youth justice. EEI aims to “*respond as quickly as possible to offending behaviour by children and young people*” (Core Elements, 2015, 1).

Arguably EEI in Scotland is influenced, as the name suggests, by theories of early intervention spanning from the prevention agenda. Practice experience and academic research has shown that the earlier a problem is identified and interventions are put in place the more susceptible the child is to positive engagement (Consulted Ltd, 2010). ‘*Early*’ in EEI should indicate early in the offending trajectory and earlier in the penetration of formal systems to promote desistance, rather than criteria based on age or level of offending. An initial evaluation of EEI found that young people were engaging with services much sooner after an incident than had previously been the case if it had been processed through the CHS (Consulted Ltd, 2010).

3.8.3 Diversion and ‘Proportionate’

Newburn & Souhami (2005) indicate that diversion is influenced heavily by labelling theory. The central premise argues that state intervention reinforces delinquent identities in young people who become involved with the law. This was a central finding of the Edinburgh Study of Transitions in Crime (McAra & McVie, 2010). The overall aim of diversion is to promote minimal contact between young people and the state to reduce the opportunity for stigmatising labels to be placed on them and in turn reduce the potential for reoffending. The focus is on diversion from formal processes (courts and custody) as well as diversion from crime (length of criminality) by reducing reoffending using alternatives to formal systems. The logic of diversion,

to keep young people away from formal systems and justice interventions, was coined the '*quiet consensus*' by Haines & Drakeford (1998) due to the common-sense approach and merit of the presumption. It is further influenced by the increased understanding of the social construction of 'youth' and the normality of offending for young people, which stipulates young people should be diverted from formal systems where possible as the majority will not become persistent offenders (Rutherford, 1986). A centrally related concept within diversion is also the principle of minimum intervention: that diversion should be preferred to intervention except when necessary and that any intervention should be timely and proportionate (Whyte, 2016).

EI, in terms of the Scottish Youth Justice System, circumvents formal proceedings which include both the Children's Hearing System and the Criminal Justice System with the understanding that 'system contact' correlates with propensity to desist from crime (McAra & McVie, 2010). EI acknowledges the inappropriateness of the Hearing system as a location for all youth offending complaints due to the standards of concern which are required for a case to be taken to a hearing. Evidence from The Edinburgh Study of Youth Transitions and Crime (McAra & McVie, 2010) strongly advocated for the principle of minimum intervention based on the findings that young people, who have significant system contact, fared worse in terms of desistance from offending, with poorer outcomes the further into the system they reach (McAra & McVie, 2010). While minimum intervention is the stated benevolent intention of the EI system, this research will develop an argument that rather than an alternative system, EI processes young people very much in the same way as a formal system, potentially to the same detrimental outcome. While the system is designed to be an approach, EI appears to have developed the many characteristics of a process with a detailed policy, practice guidance, the involvement of agencies, meetings, decision making, record keeping, evaluation and monitoring.

3.9 Findings of EEI Scoping Study

Policy and practice guidance (Scottish Government, 2009²⁰), supported by evaluations of EEI pilot areas (Fraser & MacQueen, 2011; Consulted, 2010) maintained that rather than stipulate practice for effective working, the promotion of localised working would allow effective practice to evolve. This is increasingly seen as a barrier to effective implementation of EEI practice and is a significant issue for any research or evaluation on this practice. For example, the WSA evaluation noted its limited generalisability due to, “*geographical, demographic and organisational backdrop*” (*ibid*, 13). The first step for this research was to try to capture both the level of complexity of EEI and variation in practice through a scoping study. This informed the methodology both in terms of case study selection, by highlighting that generalisability would remain an issue, but also encouraged the researcher to look both across variation and take account of variations, which may in themselves be issues of concern. The scoping study involved interviews with EEI Chairs or Whole System Approach managers in each local authority; and, where possible and practical, observation of EEI meetings (discussed further in Chapter 4, section 4.5.3). As such the research has resulted in the development of a flowchart of EEI practice more generally, which can be used to show variations and complexities in practice as areas for concern (figure 2.7).

²⁰ <http://www.gov.scot/Resource/Doc/254429/0081716.pdf>

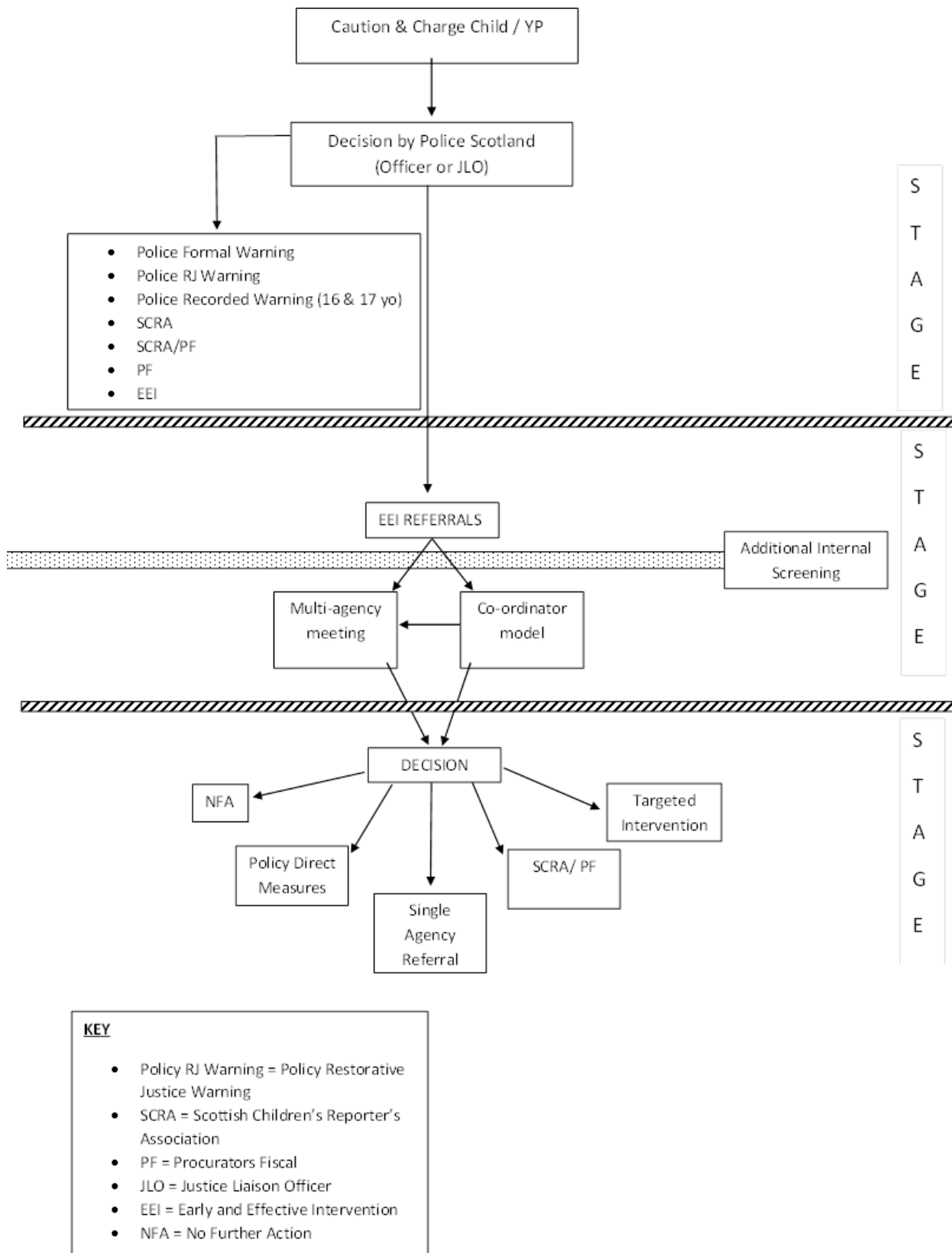


Figure 3.7 EEI flowchart

Stage 1 requires an initial decision to be made on the most appropriate route to intervention for the child. The Police at this stage would decide whether a referral to the Children’s Hearing System or to EEI is appropriate; or whether the matter could be resolved by Police through either a Formal Police Warning or a Restorative Justice Warning. The second stage is where a multiagency discussion would take place regarding the child whose case has been deemed appropriate for EEI. As shown in the flowchart, some areas operate an additional layer of single agency screening prior to multiagency discussion. This is usually carried out by Social Work or the chairing agency. The outcome of the meeting, as indicated in stage 3, is to make a decision on the best way to address the offending behaviour or underlying needs from the range of decision outcomes. If, following a multiagency discussion, further action is required, EEI retains the option to refer on to either the PF or the Children’s Hearing System.

This section details the practice of EEI in Scotland as understood by the findings of a scoping study which formed an initial phase of data collection for this research project.

3.9.1 Police as gatekeepers to the system

Children enter the youth justice system through the Police following a formal charge of an offence or anti-social behaviour. Similar to the findings of the WSA evaluation (Murray et al, 2015), the Police were identified as gatekeepers to the EEI system in this research as they identify and allocate cases suitable for EEI from all cases involving children who receive a Police charge. Decisions are based on official information such as: Lord Advocates Guidelines²¹; the child’s involvement with the Children’s Hearing System and SCRA; the young person’s offending history; as well as more informal information such as the attitude of the child and their parents. Police

²¹ Lord Advocates Guidelines on offences committed by children contains guidance to police officers in Scotland on the categories of offence which require to be jointly reported to the Procurator Fiscal and the Children’s Reporter and therefore are not eligible for discussion at EEI. They can be viewed at http://www.copfs.gov.uk/images/Documents/Prosecution_Policy_Guidance/Lord_Advocates_Guidelines/Lord%20Advocates%20Guidelines%20offences%20committed%20by%20children.pdf

Officers working in concern hubs, which process all child concerns, work across all 32 local authorities and practice varies significantly as can be seen in figure 2.8.

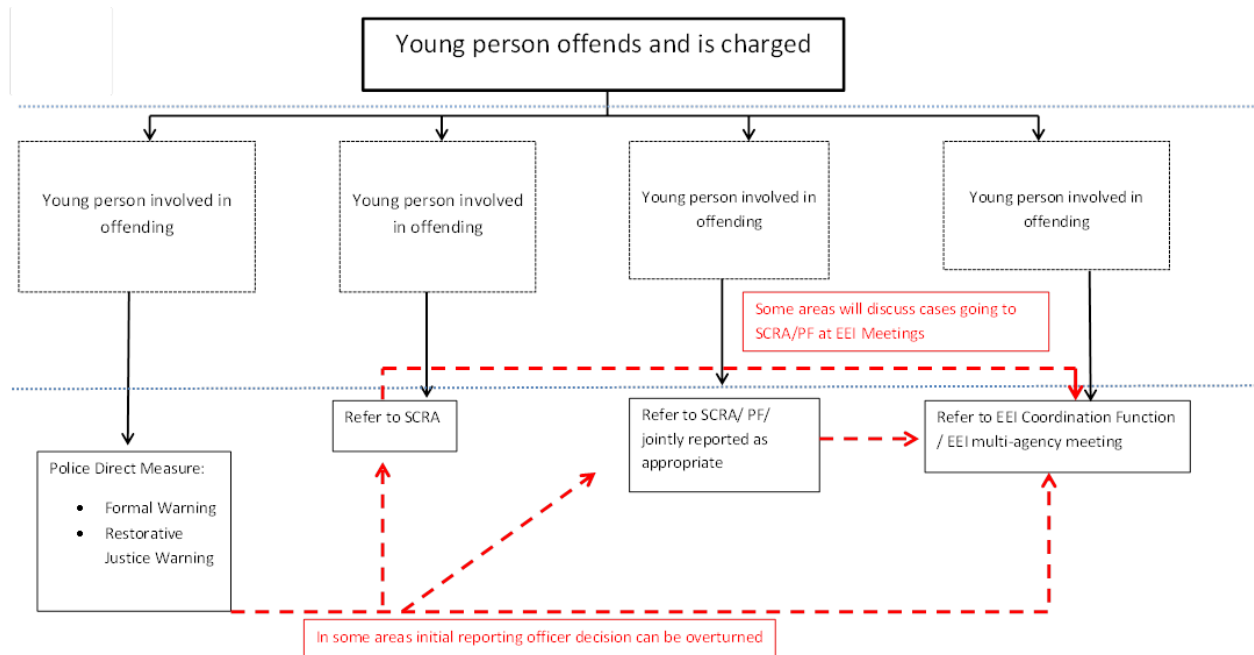


Figure 3.8 Police procedure in allocating to EEI.

The red lines show where practice varies which has led to different practice across Scotland. All offences by children should be considered for EEI unless excluded through one of the following criteria as outlined in the Core Elements (2015):

- For under 16s – Lord Advocate Guidelines for jointly reported cases.
- 16-17 year olds – COPFS guidelines.
- Police Scotland guidance for immediate referral to Children’s Reporter

Some areas discuss cases at EEI when the child is known to SCRA, in other areas this makes a child ineligible for EEI. Murray et al (2015, 48) found that “*some offending behaviours could not be considered for EEI, even though the young person would be better served by this approach*”. This is due to some areas following the Lord Advocates Guidelines rigorously, while other areas treat it as guidance. Police will decide on the suitability for a Formal Warning as the primary response to the offence, again as outlined by the Core Elements (2015). In some areas a Formal Warning

issued by a reporting officer, at the time of the incident or after, means the child is no longer eligible for EEI. The Core Elements aimed to clarify this practice; however, this research found discrepancies appear to persist.

‘Concern Forms’ have recently been introduced as part of the new Police system for recording incidents regarding vulnerable persons and supplement the traditional crime report, although a referral to EEI must be subject to a crime report a number of interviewees identified that concern forms provided useful additional information and give the Police the opportunity to identify wider concerns using the SHANARRI indicators (see table 3.1, section 3.5.1). However, it was noted the value of information from concern forms varied depending on the reporting officers understanding of wider welfare issues.

3.9.2 Models of EEI

As discussed earlier in the chapter, EEI operates differently across the 32 local authorities in Scotland. The scoping study aimed to clarify local differences in practice, in order to establish models common across authorities. The complete findings of the scoping study outlined in a matrix are provided in Appendix H. This section discussed the two models of EEI developed from the Scoping Study.

3.9.2.1 *Multiagency meeting*

The multiagency meeting is the model most commonly associated with EEI. In this model a regular meeting is convened to discuss all young people referred to EEI by the Police. A core group of representatives from multiple agencies are informed of the children due to be discussed; they will reach out to colleagues from their agencies and relay information back to the meeting; a multiagency consensus is made as to the most appropriate output for the child from a range of options. This model was being utilised in 15 of the local authorities surveyed. Following observations, in this model the coordinator acts merely as a chair of the meeting and disseminates information and does not appear to have any more decision making power than the other representatives present.

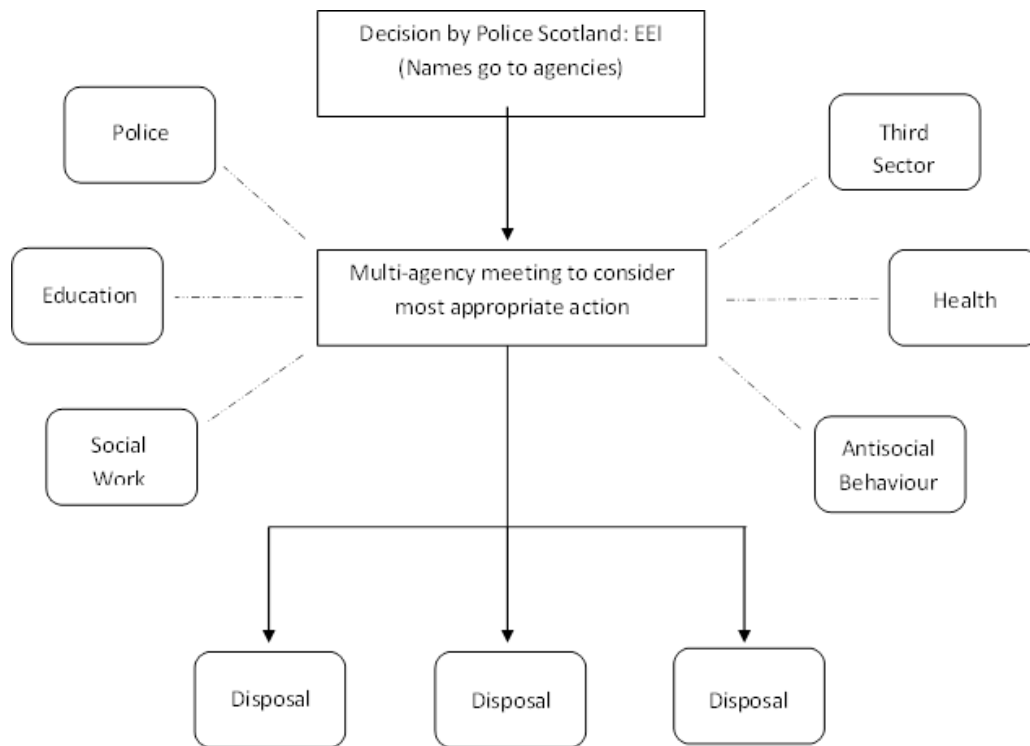


Figure 3.9: Multiagency meeting

3.9.2.2 *Coordinator model*

In the 'Coordination Model' the coordinator, as well as a chairing role, has centralised decision making authority. In their role, the coordinator: receives referrals; requests information from agencies, often directly from key workers; and makes decisions on the outcome of the referral based on this information. Multiagency intelligence informs the co-ordinators decision. Ten of the areas interviewed used this model of decision making. Six areas retained the option of convening a multiagency meeting, stating it is occasionally required for cases where the complexities merited a fuller discussion.

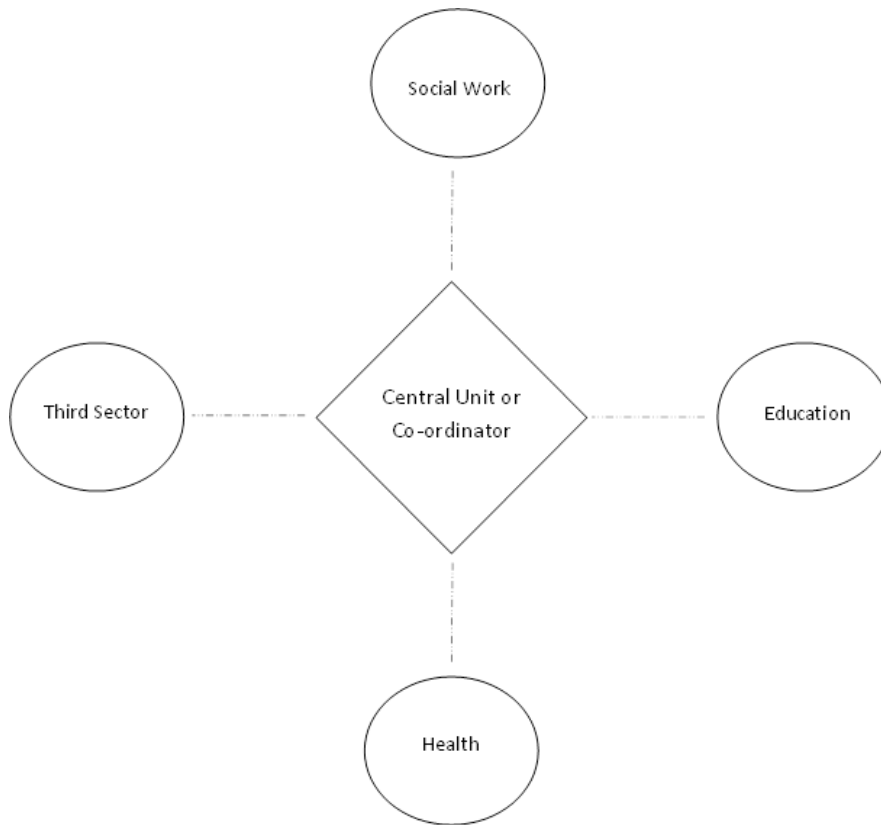


Figure 3.10: Coordinator Model

3.9.2.3 *Variations*

Although these two models have been identified in the Scoping Study as being the models broadly adopted across Scotland there are local variations which have allowed EEI to be adapted to existing local practice and professional environments. These subtle but significant variations may have an impact on the overall functioning of EEI and impact on the outcomes for young people.

Level of multiagency working

As is evident from figures 2.9 and 2.10, the two models do not involve the same level of partnership working. In the coordinator model, agencies share information via a central individual, the coordinator, rather than together. This can be assumed to require a lesser degree of interagency collaboration, merging of professional identities and opinions and ultimately, decision making.

However, when using the coordinator function information is sought from practitioners known directly to the young person, for example, the young person's teacher or social worker, which may provide a better quality of information regarding the wellbeing of the young person.

The remit of the group

Some areas, while acknowledging the merits of an established EEI multiagency group, have incorporated EEI provision within existing multiagency forums with the remit of child protection or welfare issues. Four local authorities discuss young people referred to EEI alongside issues such as welfare concerns; child protection concerns; absconding; and domestic abuse. The central tension of the interplay between welfare and justice, two seemingly opposing forces, was evident between agencies, within groups, and within decision making processes. The discussion between agencies involved in groups, which also discuss welfare concerns together with offence referrals, may be influenced by the joint remit of the agenda; however, observations of such groups were unable to be secured during the scoping study.

Agencies involved in EEI

The Implementation Guidance (Scottish Government, 2009, 8) states relevant agencies and their participation in EEI should be based on their ability to,

"...either provide information that is relevant to making a decision on how best to intervene with the young person or they can actually offer an intervention which will assist in engaging with a young person."

Throughout the interviews and across agencies the role of those involved in EEI is described as:

- Providing and sharing information
- Decision making (within the traditional model); and supporting the coordinator in coming to the right decision in other models
- Providing services/support to young people through EEI.

From the matrix, agency representation can be highlighted across the country. Statutory agency attendance was consistent across almost all groups; some areas have a problem with attendance from specific agencies (most often Health) or particular schools within the area. Health was represented at 8 of the areas involved in the study. In some areas groups were only attended by statutory services; others included the Third Sector, employability services, housing, and Antisocial Behaviour. Third Sector agencies were included in 10 groups.

The justification provided for tailoring attendance to those known to a child, or for not including agencies other than those with a statutory responsibility was namely information sharing. The second justification for tailoring attendance to the child's needs was based on GIRFEC and the aim of keeping young people within statutory services where possible. There was a concern that blanket attendance of a range of agencies could have the potential for statutory agencies to withdraw their obligation to a child or a tendency to refer to specialist interventions with the potential to up-tariff. It was noted in interviews that the option to refer to specific interventions or agencies is not dependant on their attendance at a meeting and the relevant intervention will always be sought. Time management was not identified as a justification for tailoring attendance to the child.

3.9.3 Menu of Options

The menu of disposals available to EEI, across all models, should extend to a number of categories; however specific interventions will vary on service provision within each area, including Third Sector activity. A menu of disposals was outlined in the Core Elements (2015) to ensure consistency in available outcomes across Scotland and include²²:

²² "Potential reason why no action would be taken includes the child or young person already being monitored by single agency or coordinator and there are no wider concerns present... if there is a previous plan in place that is already addressing needs... The term 'no action' should not be viewed as disregard for the child's behaviour, which in fact is being appropriately addressed." (Implementation Guidance, 2009, 12)

Menu of Disposals

No Further Action**

Police Direct Measures

Single Agency Support- through social work, education, health

Referral for a targeted intervention- Restorative Justice, substance misuse etc.

Referral to the Children's Reporter- this is not an alternative to offering support through EEI but an option where a compulsory supervision order might be necessary to support the young person.

The uniformity of disposals across local authorities, despite different models, provides the opportunity to compare issues which may affect the choice of disposals for young people.

3.9.4 Engagement with Young People

"A young person should understand that a referral is being made to EEI. Views of the child should be sought where a targeted intervention is proposed."

(Core Elements, 2015,4)

Evidence to support young people's views being obtained was limited with only one Local Authority, using the coordinator model, embedding the work into their process. This Local Authority invite the young person referred to EEI, and where relevant their family, to meet with the coordinator prior to decisions being made. The coordinator said it, '*definitely affects [his] decisions and helps to foster engagement*'; although it was noted he is only able to do so because it is a small locality with a low number of referrals.

For the remaining local authorities reasons given for not seeking the views of young people included that the time it would take to meet every young person prior to a decision being made would significantly slow down the process. For others, EEI is a process of initial decision making and therefore young people do not need to be involved at this stage. Their involvement will increase significantly through interventions they may receive through EEI, and these views will be taken into account if re-referred.

Three local authorities noted that when young people and their families are notified that their case will be dealt with through EEI, usually via letter, they are invited to contact the coordinator if they have any questions or concerns. Both noted this often happens, however maintained it should be the responsibility of the child or their parent to contact.

Most local authorities provide information to young people who are referred to EEI, in addition to any information given by the reporting officer at the time of being charged. In an online search for information on EEI in various authorities, search results and the quality of information were varied. For a number of local authorities there was no information on EEI found. This may be an area of consideration for multiagency EEI groups when considering young people's information seeking behaviours.

3.10 Conclusion

This chapter has served to highlight the inherent contradictions and complications within youth justice. Tracing the development of youth justice conceptual frameworks provides an introduction to the context in which the current practice under study has emerged. Actuarial justice suggests that these traditional divisions may in fact be less relevant than they once were, as new management and containment approaches increasingly influence rationales of justice. Inherent contradictions are further shown to play out in policy, in particular that of wellbeing

and rights in the GIFREC context, which subsequently have implications for practice including EEI under the WSA.

While all these conceptual and practice complexities exist, all are underpinned by stated benevolent intentions. The intentions and logic of EEI, which includes prevention, early intervention, and diversion, are theoretically robust. The knowledge obtained on the practice and process of EEI through the Scoping Study, building on concerns and limitations of previous evaluations of EEI, has served to show how diverse practice is nationally. While the scoping study provides a snapshot of practice, which will undoubtedly change, it provides a critical opportunity to scrutinise the conditions of current practice in which discrepancies arise with a view to minimising inconsistencies. In understanding how concepts and policies rationalise and inform EEI practice, studies will be able to move on to consider the context in which outcomes arise at different levels.

4 METHODOLOGY

From the outset of the research it was clear the topic for investigation, Early and Effective Intervention (EEI), was a complex practice landscape with methodological, empirical and practical issues which would require consideration throughout. An initial scoping study served to clarify and refine the research questions and approach, then a modified grounded theory methodology was applied to supplement a case study approach. The decisions taken in this research have been consistently informed by the theoretical, methodological and practical parameters of the research in keeping with a pragmatic epistemology. Researching in a varied, multiagency area of youth justice practice the researcher collected data in three case study locations across Scotland, utilising qualitative methodological tools, and descriptive statistical data.

4.1 Introduction

The previous chapters provide the contextual background to the study, outlining the policy and practice landscape in which the current research is situated and the wider theoretical underpinnings using the works of Stanley Cohen. This chapter outlines the research process and approach employed in this project, including highlighting limitations stemming from the methodological decisions. Section 4.1 details the research journey, which attempts to illustrate the emerging and pragmatic nature of the methodological aspects of the research. The remainder of the chapter follows a conventional structure of outlining the data collection methods and analysis techniques separately, although in the research process they were implemented concurrently. This has been purposefully done to stop the “*unfortunate consequence of creating the impression of methodological slurring*” (Suddaby, 2006, 637), in order to show the rigour of the methodological aspects of the research.

This chapter will first outline the research journey in relation to the study’s aims and objectives. Successive sections will then discuss in turn: the research paradigm, pragmatism; research approach, case study and modified grounded theory; data

collection, including the methods employed; data analysis techniques and processes; and finally, methodological issues, including ethics and rigour.

4.2 The Research Journey

The research employs multiple methods and combined methodologies to research in a complex practice landscape. It is therefore helpful for the researcher to provide a short narrative on the research journey to make clear the methodological and practical decisions that were made and their relationship with the research process.

The research Journey is illustrated in figure 4.1.

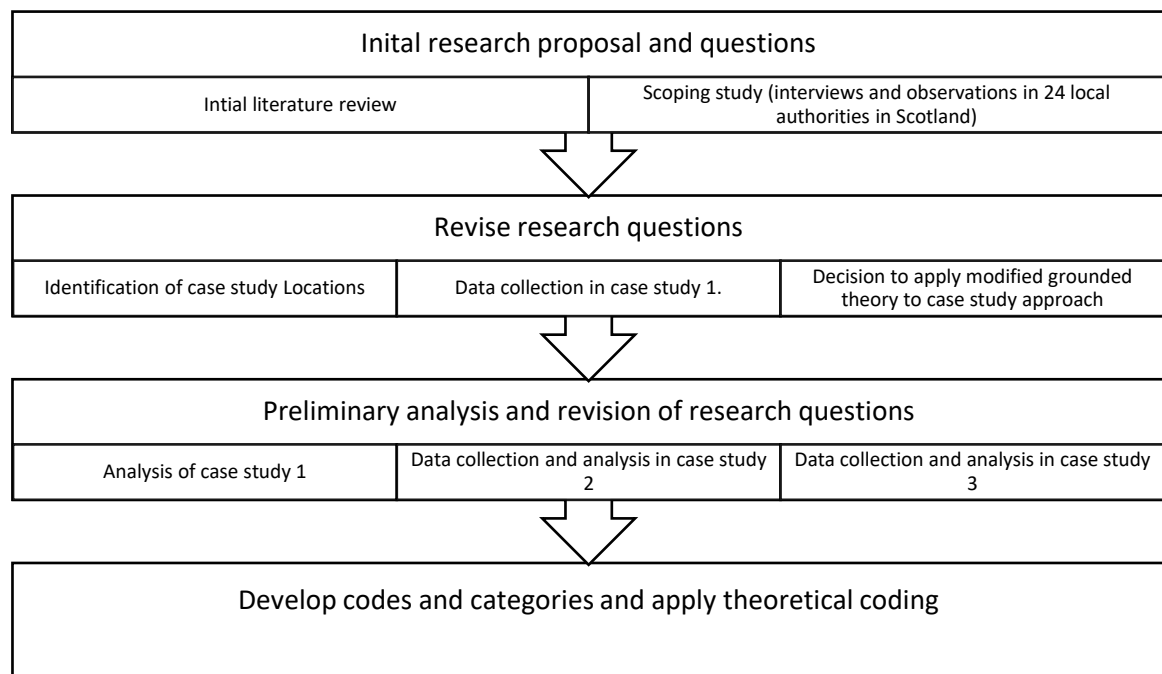


Figure 4.1. Research Journey

The aim of the research was to examine how and why collective decisions are made in a youth justice context, specifically the Scottish practice of EEI. This question stemmed from previous work by the researcher in the area of youth justice which found that a changing policy and practice focus towards early intervention may account for the decrease in recorded youth crime (Gillon, 2014). The current study

was funded through an ESRC Collaborative Competition award and it was therefore essential, as well as of importance to the researcher, that the work be of social use. There has remained a strong commitment to knowledge exchange supported throughout by collaborating partners: Sacro²³; and the Centre for Youth and Criminal Justice (CYCJ²⁴).

Following a search of relevant literature, including policy and practice documents, it became evident that the practice of early intervention in youth justice is under researched (Papadodimitraki, 2016). To clarify what constituted EEI in current practice, a scoping study was conducted with the research taking place between January 2015 and April 2015. The aim of the scoping study was to produce a 'map' of EEI process and practices across Scotland to inform the development of research questions and the potential use of case study methodology for further research. The findings of the scoping study are outlined in chapter 3 (section 3.9). Following the scoping study the decision was made that EEI was a multiagency decision making practice and would be the focus of further fieldwork and data collection. Due to the scale of variation in practice across Scotland found at this stage in the project, the decision was made to employ a multiple case study approach to account for and across practice diversity.

An initial scope of the literature was undertaken as required for the first year annual review and included: literature on partnership working; conceptual underpinnings; and policy response to young people who offend. After initial data collection was conducted in the first case study location the researcher made the decision to incorporate modified grounded theory to inform the subsequent data collection and analysis. This was deemed appropriate as the findings of the scoping study and

²³Sacro is a Scottish community justice organisation which works to create safer and more cohesive communities across Scotland. Sacro provides a wide range of services spanning all aspects of the community justice continuum, including youth justice services. <http://www.sacro.org.uk/>

²⁴CYCJ is a practice development and knowledge exchange centre, funded by the Scottish Government and hosted by the University of Strathclyde <http://www.cycj.org.uk/>

findings from Location A were the primary consideration in terms of informing the decisions and direction of the research.

The aim of the research was to examine how and why collective decisions are made in a youth justice context, specifically EEI. It became clear the research was situated in the immediate landscape of Scottish youth justice, context bound in current policy and practice but also incorporating the themes of early intervention, multiagency working and decision making. Considering these developments, the research objectives were refined over the period of the research to address the following questions:

- What are the governing principles evident in youth justice in Scotland?
- How does EEI function in practice and what are practitioners' reflections on how multiagency working functions in the context of EEI?
- What discourses are evident in the decision making of youth justice practitioners and to what extent are they reflected in the wider youth justice landscape?
- What are the implications of this approach to youth justice for:
 - Children involved in offending behaviour, aged 8-18;
 - Practitioners, both involved in and affected by Early and Effective Intervention;
 - The wider youth justice landscape.

4.3 Pragmatism - Shaping the Research Paradigm

This section outlines pragmatism as the underlying epistemological position adopted by the researcher and the influence of this on the methodological decisions which have been made. The remaining aspects of the research paradigm, methodology and methods, are discussed in later sections of this chapter.

The terminology in the field of methodological study is contested and interchangeable. For clarity, this research adopts the following definitions, as stated by Scotland (2012, 9):

“A paradigm consists of the following components: ontology, epistemology; methodology and methods... Epistemology is concerned with the nature and forms of knowledge...concerned with how knowledge can be created, acquired and communicated, in other words what it means to know.”

Philosophies about the nature of truth and knowledge exist on a continuum. At the most basic level there is a fundamental divide between positivism and interpretivism. Positivists accept there is an observable social reality, one which can be hypothesised and measured - also known as objectivism (Saunders et al, 2011). Scientific methods are applied to the social research domain to hypothesise, test or theorise about the social world. Traditionally this involves applying quantitative data collection measures which allow methods and findings to be replicated and verified.

In direct opposition to the positivist world-view, interpretivists see the world as containing multiple social realities in which knowledge is socially constructed (Saunders et al, 2011). Interpretivist approaches *“look for culturally derived and historically situated interpretation of the social life-world”* (Crotty, 1998, 67). Reality is viewed as subjective and therefore is negotiated between researcher and participant. Interpretivist researchers are likely to employ qualitative research methods to obtain thick descriptions²⁵ of the complex meanings participants attach to their social realities (Saunders et al, 2011).

A vast number of different approaches including, for example, post-positivism and critical realism have stemmed from these contrasting stances. These contrasting stances have developed their own body of literature and place within the continuum of philosophies, based on their commitment to knowledge and knowing being either a measureable or enacted truth.

²⁵ *Thick description* is a qualitative research term which suggests that descriptions should include interpretive characteristics (Given, 2008).

Onwuegbuzie & Leech (2007) consider three schools of thought which have arisen following the dualist divide. *Purists*, from both positivist and interpretivist paradigms, maintain that due to the considerable differences between the underlying assumptions about the nature of research that subsequent methodologies and methods cannot be combined. Alternatively, *Situationalists* value the contribution of both methods, yet remain mono paradigmatic in their views, and understand there are situations where combining methodologies and methods can be complementary. *Pragmatists* reject epistemological dualism altogether: while they do not disregard the legitimacy of established philosophies such as positivism and interpretivism, they seek to look beyond the dualism of the traditional research paradigms.

Pragmatism, therefore, offers an alternative paradigm through which to consider knowledge and research. Pragmatism discards the need to subscribe to one particular view and instead:

“strives to reconcile both objectivism and subjectivism, facts and values, accurate and rigorous knowledge and different contextualised experience...by considering theories, concepts and ideals...not in an abstract form, but in terms...of their practical consequences in specific contexts” (Saunders, 2011, 143).

The origins of the pragmatist approach can be found in 20th century American philosophers such as Charles Pierce, William James and John Dewey. Pragmatists do not see any value in ascribing to any one of the aforementioned philosophies, instead recognising:

“that there are many different ways of interpreting the world and undertaking research, that no single point of view can ever give the entire picture and that there may be multiple realities” (Saunders et al, 2011, 144).

What matters for pragmatists is the contribution knowledge can make to practice or action. Instead of knowledge questioning reality, pragmatism focuses on the potential for knowledge to serve a purpose (Rorty, 1999). By denying knowledge as

either a truth or a representation, it is used as a tool and its judgement is based on how useful a tool it is (ibid).

As noted by Scotland (2012) in the explanatory quote at the beginning of this section, research epistemology permeates down to the decisions made by the researcher in relation to the methodology, methods and analysis used. The researcher is informed by the pragmatist world-view as the decisions regarding methodology and methods were made exclusively due to their practical ability to answer the research question and provide the best response, as opposed to a pre-position on the nature and existence of a particular type of knowledge. By setting aside assumptions about specific types of knowledge and ways of knowing, pragmatism allowed the researcher to employ methodologies and methods which could be adapted and achieve the best fit reflecting the complexity of the research field and problem. Without the epistemological support and justification for particular methodological choices the researcher must ensure a clear justification can be made to ensure the overall rigour of the research (Feilzer, 2010).

Pragmatism and its core tenets are compatible with the essence of grounded theory methodology, although the links between the two are rarely explicit (Bryant, 2017). Grounded theory is concerned with the emergence of theory from data, balancing the inference of the researcher with the concepts and data from which they have developed. This requires utilising both an inductive and deductive²⁶ approach which combines processes from both sides of the dualist divide. Similarly, while theory development is central to grounded theory, it is not intended to represent a universal explanation:

²⁶ A deductive approach to research involved deducing hypothesis from existing theory and concepts in order to test them in the current research setting. Alternatively, inductive research is concerned with theory generation by drawing conclusions from the data. The iterative nature of grounded theory, where codes are continually emerging and shaping subsequent data collection, makes it unique in terms of a paradigmatic approach (Bryman, 2016).

“Researchers should aim to develop their own theories, based on central concepts that can be justified by the ways in which they can be shown to have derived from the iterations between engagement with the research setting and conceptual analysis” (Bryant, 2017, 343).

For pragmatists and grounded theorists alike, the relationship between theory and practice culminates in its utility - its ability to shape theories and models which reflect and enhance our understanding of practice.

Methods are also associated with the classical dualist divide: specifically considering quantitative methods suitable for positivist pursuits and qualitative tools as appropriate for interpretivist research. By embracing the pragmatist approach, mixed methods are integrated in the one study by providing an alternative world view where it is acceptable to consider both singular and multiple realities (Feilzer, 2010). As noted in chapter 3, the lack of research into the particular practice of EEI required the researcher to adopt mixed methods which would address and reveal both quantitative and qualitative aspects of practice, for example number and characteristics of referrals; and the interpretation of these referrals by practitioners.

The discussion that follows will describe in detail how each methodological approach was implemented in this study.

4.4 Research Methodology

Crotty (1998, 7) describes a research methodology as, *“the research design that shapes our choice and use of particular methods and links them to the desired outcomes”*. As documented in the narrative research journey section (4.2), a case study approach was considered appropriate following the scoping study phase of the research and was later complemented by modified grounded theory. This section will outline the research approach in detail, providing both justification and limitations of each methodology.

4.4.1 Case study approach

“Case study research is a qualitative approach in which the investigator explores a bounded system (a case)...over time, through detailed in-depth data collection, involving multiple sources of information...and reports a case description and case based themes” (Creswell, 2007, 73)

As such, case study research aims to uncover processes, behaviours and contexts using in-depth investigation of the case. Yin (2003), the leading scholar in this field, advocated case study as appropriate when:

“the focus of the study is to answer “how” and “why questions”; you cannot manipulate the behaviour of those involved in the study; you want to cover the contextual conditions because you believe they are relevant to the phenomenon under study; or the boundaries are not clear between the phenomenon and the context”.

Applying this criteria, case study is clearly an appropriate approach for this research as the above are true for investigating how and why decisions are made in a multiagency context such as EEI. From the outset of this research project, and particularly following the initial scoping study work, it was clear to the researcher that multiagency decision making could not be distinguished from the context in which it occurs. Multiagency decision making is very much a product of the underpinning principles and particular practice. Case study was therefore deemed an appropriate methodology to employ to effectively address the overall research question: how and why collective decisions are made in a youth justice context. By employing a case study approach, the phenomenon could be studied incorporating contextual complexities while taking place within a specified context of early intervention in Scotland.

This research defines the case under investigation as ‘Early and Effective Intervention’, which for this research is synonymous with a multiagency decision making practice in Scottish youth justice. Yin (2003) and Stake (1995) suggest setting boundaries on the cases to exclude irrelevant data which may become overwhelming and unhelpful. Cases were bounded by geography contained within Local Authority

areas. Collective decision making functions were confined to the context of Early and Effective Intervention initiatives, a practice unique to Scotland which involves collective decision making on low tariff youth offending.

EI operates within and between Local Authority jurisdictions in Scotland however the researcher had to consider the option of using a single or multiple case study approach. The research utilised a multiple case study approach collecting data in a total of 3 case study areas. This not only served to highlight perspectives and issues in relation to multiagency decision making across different contexts (Creswell, 2007) but also provided a more rigorous and defensible end theory (Yin, 2009; Eisenhardt & Graebner, 2007) as based on multiple sites.

4.4.1.1 **Sampling**

As discussed in chapter 3, the scoping study found a high level of variation in practice across EI in Scotland, making it clear that selecting multiple cases based on shared characteristics would not be possible, particularly when coupled with sample size and demographics, for example. Heterogeneous or maximum variation sampling, a form of purposeful sampling which advises selecting cases based on their varied characteristics, was applied (Flick, 2009). Patton (2002, 235) commends this approach as able to '*cut through the noise*' of variation to highlight any commonality that may exist in varied cases, including "*core experiences and central shared dimensions of a setting or phenomenon*". Table 4.1 describes each case in detail.

Table 4.1 Location sampling variants

Case study	Location	Model	Agency representation and Chair
Location A	Large local authority, number of large towns.	Multiagency forum	Police Chair, all major agencies represented, including Third Sector
Location B	Large local authority, majority urban town	Multiagency forum	Social Work Chair, all statutory agencies in attendance including Health-No Third Sector
Location C	Small local authority, mostly rural towns and villages	Multiagency forum	Chaired by Third Sector agency, attended by Police and social work.

As table 4.1 shows, the locations selected provide a sample which allows multiagency decision making to be explored across complex and varied contexts including different chair, agency representation and location size. During data collection, other local variations emerged which could not have been known to the researcher at the time of selection, and are discussed in relation to the findings in chapters 5, 6 and 7. The value of using a heterogeneous sample within a multiple case study approach is that while individual accounts are developed, which are useful in their own right, more significant are the codes, categories and themes which span and sustain in different contexts (Eisenhardt & Graebner, 2007). The aim is to combine a case study method which describes in detail how EEI decision making operates in different settings and a sampling method which hopes to generate an account of commonalities and differences across the settings. The findings, unless otherwise stated, are generalizable to all three case study areas and case specific issues are highlighted where appropriate.

The scoping study identified two models of EEI decision making: multiagency forum; and coordinator decision making. It was preferable for both models to be incorporated into the research; however, data collection in a fourth location which operated a coordinator model was not sustainable. The data collection phase of this project coincided with the planned implementation of Part 3 of the Children and Young Persons Bill²⁷, the controversial Named Person Service. At this time, a number of local authorities reviewed and amended practice to align with this proposed service as it was understood at the time. In haste, some authorities, such as the planned fourth case study location, made considerable changes to EEI practice. The Local Authority did not feel able to continue with the planned fieldwork schedule and due to the timescales of the project and issues with research access in this field, the inclusion of a coordinator model EEI was not possible. However, this was not deemed essential due to the vast inconsistencies in practice identified at the scoping study phase of the research.

Multiagency forums provide the opportunity to observe and understand partnership decision making. While the case studies include a range of agencies in terms of attendance, the resultant selection provided different agencies performing the chairing role, which offers another dimension for analysis. The case study locations also provide a range of Local Authority sizes and geographical areas, which should also be considered in the analysis. Participant selection was solely dependent on an individual's regular involvement in EEI decision making.

A considerable aspect of the case study selection was down to the practical aspect of gaining and maintaining access (see table 4.2). Buchanan et al (2013, 53) note: *"fieldwork is permeated with the conflict between what is theoretically desirable on the one hand and what is practically possible on the other"*. Several local authorities were ruled out as potential case studies due to their geographical location and the need for the researcher to be in regular attendance, their size or demographics.

²⁷ Part 3 of the Children and Young Persons Bill <http://www.gov.scot/Publications/2016/12/8683>

Additionally, some local authorities who were considered appropriate declined to take part stating internal concerns such as prior research commitments or significant local staff changes.

Table 4.2 Case study selection

Number of local authorities approached	32
Number of local authorities ruled out	15
Number confirmed as suitable	10
Number approached and willing to take part	4
Number involved in full study	3

It must be noted that this initial sampling strategy does not replace theoretical sampling, an essential aspect of grounded theory research which is discussed later in the chapter (Section 4.4.3).

4.4.2 Combining approaches

This research combines case study methodology with modified grounded theory principles for data generation and analysis. Modified grounded theory methods have been applied to data collection and analysis across case studies to identify emerging themes. Combining these approaches was viewed as important to produce a study which could embrace the complexity of the practice environment and contextual factors, while producing an accurate and robust understanding of decision making in multiagency youth justice contexts in Scotland.

Johnston et al (2001 in Dunne, 2011) note that merging distinct methodological approaches can increase the rigour of research. Both case study (Baxter & Jack, 2008) and grounded theory (Thornberg & Charmaz, 2014) methodologies have been described as rigorous yet flexible, and more importantly serve the function of generating themes which in turn build theory. Where case study research provides clear direction regarding the design of a case study (Eisenhardt, 1989), there is an,

“absence of strict routine” (Yin, 2009, 225) in regards to data analysis. In contrast, grounded theorists provide detailed guidance and methods for proceeding with a grounded theory approach, yet original texts often neglect to ascribe to any grand methodological or epistemological stance (Amsteus, 2014). Dunne (2011) suggests that researchers, so long as they have a sufficient understanding of the nuances of grounded theory, should be able to defend their position on how it is applied. The research has justification for combining methods to generate robust theory from a complex landscape and to advance mixed methodological approaches in research.

4.4.3 Grounded Theory

The focus of grounded theory research is, *“on what people do and the meanings they make of their actions and on the situations in which they are involved”* (Thornberg & Charmaz, 2014, 154). Founding theorists Glaser & Strauss (1967) aimed to develop a methodology which could uncover the meanings people attribute to their actions and experiences and as such is relevant to the current research question which asks participants to explain how and why they make particular decisions, within the boundaries of the case.

The origins of grounded theory have resulted in a contested and debated field. This research applies modified grounded theory methods and therefore a full explanation of variations in grounded theory approaches²⁸ is not required. Rather, the researcher has utilised the common and essential elements of grounded theory analysis including: concurrent data collection and analysis; theoretical sampling; constant comparative analysis; theoretical coding; memos; and the process of theory development²⁹. The researcher applied modified grounded theory to supplement the

²⁸ For an explanation of the variations in approaches to Grounded Theory, see: Thornberg, R (2012) Informed Grounded Theory. *Scandinavian Journal of Educational Research*. Vol.53 No. 3 pp 243-259
Flick, U (2014) Grounded Theory Coding. In Flick, U: *The Sage Handbook of Qualitative Data Analysis*. London, Sage. Kelle, U (2007) The Development of Categories: Different Approaches in Grounded Theory. In Bryant & Charmaz (Eds) *The Sage Handbook of Grounded Theory*. London, Sage.

²⁹ For a summary of common elements of Grounded Theory across approaches see: Thornberg, R; Charmaz, K (2014) Grounded Theory and Theoretical Coding in Flick, U (Eds) *The Sage Handbook of Qualitative Data Analysis*. London, Sage.

case study approach which strengthens the process of developing theory from the accounts of participants. The sections to follow describe the aspects of grounded theory methodology applied to this research and, where relevant, highlight their departure from conventional case study methodology.

4.4.4 The Role of Theory and Literature

“Your purposes in reviewing the literature are to establish the conceptual foundation for the study, to define and establish the importance of your research question,” (Hancock & Algozzine, 2006, 26).

The role of theory and literature in the design and development of research projects is the first point of departure between the two methodologies applied to this research. Case study research would suggest developing, *“a sufficient blue print for your study...requiring theoretical propositions”* as stated by Yin (2009, 36) and is essential in grounding the research, which may otherwise become too broad in scope. Purist grounded theorists argue against the literature review taking place before the research commences both on ideological and pragmatic justifications. Grounded theorist Glaser argues that prior theoretical knowledge can contaminate, inhibit or stifle the ability for the emergence of codes to be purely from the data (Mills et al, 2006). Further, Glaser (1998) would argue that the relevant areas of interest to a study are not known before the analysis has been completed and only then should relevant literature be ‘weaved in’ (Thornberg, 2012).

Evolved grounded theory approaches view prior knowledge as a contribution to theory development, and acknowledge a range of practical and methodological criticisms with delaying the literature review including: career development in particular fields; applying for funding and developing defensible proposals; and acknowledging a true contribution to knowledge (Thornberg, 2012). In her seminal

work on the development of theory from case study research, Einenhart (1989, 536) acknowledges that while truly inductive theory building research would employ a *'theoretical clean slate'*, this is unachievable.

The researcher, while acknowledging the paradigmatic arguments involved in this area, undertook an initial literature review in the first year of the research both to comply with PhD progression regulations and to gain an understanding of previous research in the field. This supported the refinement of the research questions and data collection methods, as described in the research journey (section 4.2). The initial literature review included literature on partnership working and youth justice with a particular focus on Scotland and was supplemented with an addition to the review, after theoretical coding had been applied.

Constant consideration of the potential influence of the researcher's research background and theoretical understanding of the field were made and reflexivity was employed to minimise potential influence of any pre-existing underlying assumptions. Reflexivity is discussed in section 4.6 of this chapter.

4.5 Data Collection

The research process is rarely linear and like many research projects data collection methods were determined by both practical and theoretical considerations. The research process within this project utilised a number of research methods including: interviews; and observations, from which descriptive analysis was also produced. The research instruments were informed by the literature review, initial findings from the scoping study and the researcher's prior knowledge of the subject area.

4.5.1 Concurrent data collection and analysis

One of the fundamental principles of grounded theory, across all its variations, is the importance of simultaneous data collection and analysis throughout the entire research project (Thornberg & Charmaz, 2014). This ensures that the finalised

grounded theory is closely related to the experience of the participants. This research completed data collection and analysis of case study one before moving onto the other case studies, in order to develop and refine the relevant themes and categories between the cases. The data collection and analysis process is outlined in figure 4.2.

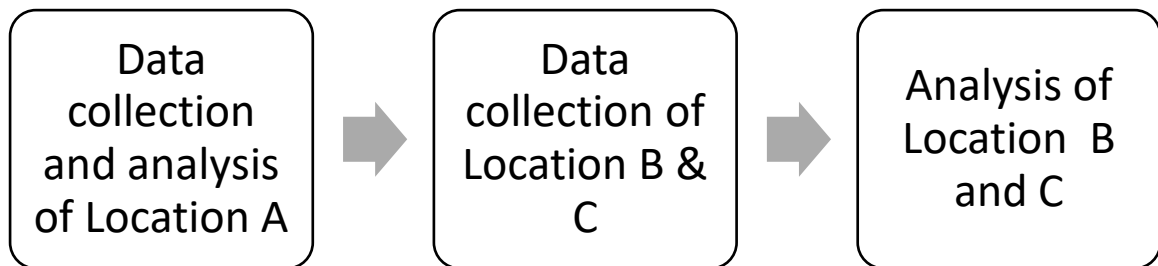


Figure 4.2 Data collection and analysis process

4.5.2 Theoretical Sampling

Theoretical sampling is another defining and distinguishing feature of grounded theory, different and in addition to initial sampling strategies (4.3.1). Charmaz (2006, 100) succinctly highlights the difference between the two forms of sampling: *“Initial sampling in grounded theory is where you start, whereas theoretical sampling directs you where to go.”* Glaser & Strauss (1967, 45) define theoretical sampling as,

“the process of data collection for generating theory whereby the analyst jointly collects, codes and analyses his data and decides what data to collect next and where to find them’.

Theoretical sampling is linked to the above point of concurrent data collection and analysis. The purpose of theoretical sampling is twofold: it focuses the researcher, ensuring they are not overwhelmed by the amount of data being produced; and ensures emerging themes are developed and refined close to the data. Theoretical sampling serves to evidence the *‘transportability of theoretical ideas’* (Rapley, 2014,

59) through further study, which requires the potential for questions to be changed, omitted or added, or new methods or participants to be introduced.

Initial sampling strategies are necessary due to the constraints of the PhD timescale and practicalities of researching in the field. While this particular predetermined aspect of the research specified the number of cases, methods and participants, theoretical sampling encouraged the researcher to refine interview transcripts, re-align the focus of the observations and pursue themes developed in memos.

4.5.3 Methods

A multi-method approach was used in this study, in keeping with the research paradigm employed in this study. Cornish & Gillespie (2009, 803) state that, “*a pragmatist approach... argues that there is no absolutely ‘best’ method, but each method is good at achieving particular ends*”. This is in accordance with the underlying assumptions about knowledge and truth as outlined previously. In order to achieve an in-depth level of understanding, case study and grounded theory methodologies encourage the use of a range of methods which can span the quantitative and qualitative fields (Yin, 1994). In addition to this a multi-method approach serves to increase validity of the emergent theory, in a form of triangulation (Hartley, 2004). It should be noted that:

“The choices of methods have consequences: “how you collect data will effect which phenomena you will see, how, where and when you will view them, and what sense you will make of them” (Charmaz, 2006, 15)

Section 4.5.3.1 onwards explored each method in turn.

4.5.3.1 *Scoping Study*

As detailed in the research journey (section 4.2), an initial scoping study was undertaken in the first year of the research and the findings are presented in chapter 3 (section 3.9). This short section outlines the methods used in the scoping study and their influence on later phases of the research.

EEl operates within Local Authority boundaries, however, some areas have formed partnerships or combined resources, meaning the conventional 32 local authorities can be viewed as 29 EEl groups with Aberdeen city, Aberdeenshire and Moray, and South and North Ayrshire at the time operating joint EEl processes.

Every Local Authority was contacted via email inviting their EEl co-ordinator or Whole System Approach (WSA) manager to take part in the research which would involve one short interview. A total of 20 interviews took place, 16 face-to-face and 4 by telephone, covering 24 local authorities. Nine EEl groups were unable to take part in the research: 2 due to previous commitments to research projects; a further 2 local authorities were unable to take part due to the failure of council ethical approval being sought in time; 2 declined to take part due to staff changes; and contact was unable to be established in a further 3 authorities. EEl chairs or coordinators were identified as potential interviewees due to their management and understanding of the practice and issues arising from EEl in their area.

Authorities were asked if the researcher could observe EEl meetings: observations of multiagency meetings took place in 7 local authorities, allowing the researcher to gain insight into how EEl decision making practices work in particular areas and the potential complexity of researching in this area. The analysis of this data resulted in a practice matrix which can be found in Appendix H.

4.5.3.2 Interviews

Semi-structured interviews with EEl practitioners were used to achieve the research objective of understanding practitioner's experience of EEl decision making, allowing for in-depth descriptions to be explored and interpreted by the researcher (Yeo et al, 2014). Interviews are often characterised as guided or directed conversations (Warren, 2001; Charmaz, 2001). The research question and subsequent objectives focus on how and why collective decisions are made in a youth justice context. Interviews provide the opportunity to explore experience and understanding in a fluid and flexible manner and were therefore a fruitful way to obtain accounts from

individuals involved in such decision making. A total of 17 face to face interviews were carried out across the 3 case study locations, representing all regular participants involved in EEI³⁰.

This method was selected over questionnaires as interviews give participants the opportunity to express their views more freely. Interviews were semi-structured as the emergent nature of grounded theory research demands that all methods be flexible and structured interviews would not have elicited as rich data.

Semi-structured interviews employ a loose interview guide, based around thematic elements and areas hoped to be discussed. An initial interview guide was developed following an initial review of the literature, building on previous learning from research in this field and preliminary discussions which took place in the scoping study phase. Due to the approach required for grounded theory, which encourages initial decisions to be revised following theoretical sampling, the schedule was edited as required. A copy of the initial interview schedule can be found in Appendix A, where broad questions are developed under key topic areas relating to the objectives of the research.

Local authorities were selected as case studies, and participants were recruited within these authorities. Professionals who took part in EEI were asked to take part in the interviews due to their direct involvement in multiagency decision making and subsequent ability to share their experience and understanding of the process. The sample was self-selecting, and the researcher had no influence over the participant's personal characteristics, although these are not of relevance to the study.

Interviews were audio recorded, with permission of participants, and transcribed in order to be analysed. Flick (2009, 154) notes that the success or otherwise of an interview is often dependant on the "*situational competence*" of the researcher. The

³⁰ Location A=8 interviews; Location B=6 interviews; and Location C= 3 interviews in accordance with the Locations size and number of professionals involved in EEI.

researcher does have some prior experience of conducting research interviews and a relaxed conversational style may have been helped by the researcher's attendance at the multiagency meetings prior to interviews which helped create familiarity between participants and researcher.

4.5.3.3 *Observations*

As the focus of this research was to understand multiagency decision making within EEI, observing the context in which decisions are made was essential. Observations are particularly well suited to meeting the objectives of a case study approach as the case study, being the focus of investigation, provides the occasion for observations. Multiagency EEI meetings were observed a total of 12 times, four meetings in each location.

Observations can range from formal to informal and information can be recorded both quantitatively and qualitatively. This research chose to adopt a formal approach to observations by only recording information during specified periods, in this case the meeting. For the purpose of this study an observation protocol was developed in order to support the generation of conceptual observations (Appendix B). The protocol provides prompts for areas which may be of interest to the researcher in line with the aims of the study, to be recorded qualitatively. As such the protocol used open questions and was adapted as the study progressed, in accordance with grounded theory procedures in order to encourage data to emerge naturally. The focus of observations also adapted to the researcher's familiarity with the process and participants both within and across localities, as areas of practice which initially appeared to merit investigation became routine.

4.5.3.3.1 *Descriptive Statistics*

The statistical recording of crime is fraught with methodological and ethical difficulties³¹. As noted in chapter 3, the official statistics on EEI were not routinely published during the PhD fieldwork, with revised figures being published by the Scottish Government in 2017 (Scottish Government, 2017b³²). Additionally, the lack of statistical and outcome data was raised as a limitation to the promotion and improvement of EEI practice at the scoping study phase of the research. For these reasons, despite the caveats which will be described below, attempting to collect descriptive statistics within the case study locations was considered an important and required indication of both the volume and referral characteristics of the cases referred to EEI, and therefore a significant contribution of the research.

The data was collected by observing informal and largely unstructured face-to-face multiagency meetings to understand the type of referrals being made to EEI and the information which was being used to support practitioners in their decision making. Due to recording process and nature of EEI some variables had a lot of missing data. Firstly, the information about the variables being recorded by the researcher may not have been known by the EEI professionals; secondly, some of the information may not have been shared with partners at the EEI meetings for a range of ethical reasons; and lastly, the information may not have been accurately recorded by the researcher or presented by the professionals.

Data were collected during the 4 observations in each location, and resulted in descriptive statistics in relation to 140 cases regarding the young people discussed at the EEI meetings being recorded. The demographic variables included gender and

³¹ See: See Crow, I., Semmens, N. (2006) *Researching Criminology*. McGraw-Hill Education: England; for general methodological, ethical and political issues in recorded crime statistics; Bottomley & Pease (1986) "Crime and Punishment: Interpreting the Data" for problems when interpreting crime statistics using example of England and Wales official crime statistics; and May, T (2011) *Social research: issues, methods and process* for a more general critique to official statistics.

³²Criminal Proceedings in Scotland, 2015-16
<http://www.gov.scot/Publications/2017/01/6376/downloads>

age; other data on offence details; decision outcomes and issues which may be related to decision making, such as previous offence referrals and expression of remorse, were also recorded. The full range of variables recorded is included in the coding procedure which details the conversion of non-numerical data into numerical (Appendix F).

The data on referrals were recorded by the researcher during observations and later manually entered into SPSS (version 22) software for analysis. The data were analysed using descriptive statistics with the aim of exploring and comparing the frequency of referral characteristics to decision outcomes. Although SPSS is commonly used in inferential analysis, this research would not benefit from more than exploratory analysis. Collecting data via observation raised practical issues which have implications regarding the results, and therefore the generalisability and reliability should not be overstated. The statistical data, in triangulation with other methods of enquiry, allow some tentative conclusions to be drawn.

4.5.3.4 *Young people's views and experiences*

In the initial iteration of the research, the project aimed to understand the experience of young people who had been involved in EEI due to their offending behaviour, in the recognition that their direct experience and view has yet to be obtained in terms of assessing the effectiveness of the youth justice system (McAra & McVie, 2007).

The first method piloted was a survey. Police in Location A sent a flyer with information and a link to an online survey, an information sheet and a paper copy of the survey to all young people referred to EEI during the period of fieldwork (Appendix E), along with their EEI decision notification letter. No responses were received by post, to either the researcher or the Police in the locality, nor on the online survey. A low response rate is typical of postal survey and not all respondents will have access to a device and internet on which to complete the online version of the survey (Neuman, 2014). While methodological issues may have impacted on the response rate, the researcher also has to consider the possibility that young people

were not able or willing to respond, due to reasons including but not limited to: lack of understanding; ability to complete the task; or lack of engagement with the issues.

The researcher was given the opportunity to complete the survey with two young people from Location A who were involved in a diversionary programme as a result of the EEI decision. While the researcher appreciated the opportunity to engage with these young people, the survey method was preferred as it would ensure a random sample was obtained rather than only involving those who received a formal intervention from an agency. After the pilot surveys the researcher made the decision that the depth and range of information being sought was disproportionate to the involvement of young people in EEI, both in relation to their offending behaviour and their direct involvement and insight into the process. After consideration and deliberation with the research supervision team, the decision was made not to pursue the direct involvement of young people in the subsequent case study locations.

Somewhat paradoxically, a central finding of the research focused on the meaningful inclusion of young people in EEI processes. A recommendation following this research project would suggest any future EEI research considers the methodological and ethical issues discussed above in order to ensure the appropriate inclusion of the voices and experiences of young people.

4.6 Data Analysis

“Analysing data is the heart of building theory from case studies, but it is both the most difficult and the least codified part of the process” (Einsendhart, 1989, 539)

The majority of the adapted grounded theory methods applied in this study occur in the analysis of the data, in order to develop a theory grounded in the data from the case studies. As previously discussed this is due to both the wealth of literature on

this aspect in the field of grounded theory and fluid application of analysis methods within case study methodology. Aspects of grounded theory covered in this section include: the constant comparative analysis; theoretical coding; memos and the stages of theory development.

As discussed in section 4.3, this research does not follow a purist grounded theory methodology but rather looks across all theoretical and practical variations to produce research informed by modified grounded theory. The discovery of an emerging theory is a result of identifying 'categories' which 'illuminate' data (Denzin & Lincoln, 1998), also known as coding. In grounded theory coding is, "*the process of developing codes, categories and concepts*" (Flick, 402).

There is a degree of contention between the various epistemological approaches in relation to coding. In an attempt to offer novice researchers a path through the complexity of literature on grounded theory analysis, Birks & Mills (2011) simplify all the approaches and offer a process of grounded theory data analysis consisting of low, medium and high conceptual levels, as shown in figure 4.3. Each stage of theory development will be discussed in turn however it must be noted that while presented in this way, these steps are not sequential and are iteratively produced.

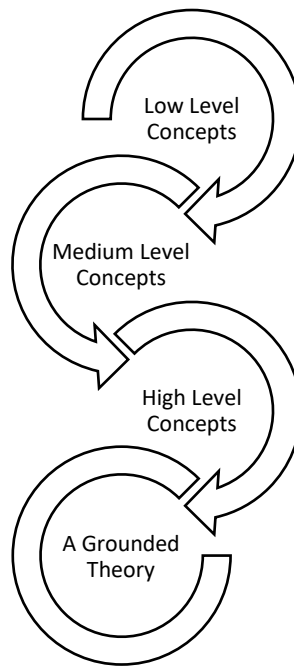


Figure 4.3. Data analysis process

4.6.1 Creating Low Level Concepts

Coding, or the creation of codes, categories and concepts and the relationships between them, is key to data analysis in grounded theory. It bridges data and theory development by breaking data down in order to reinterpret them in theory. Thornberg & Charmaz (2014, 157) state that coding:

“helps researchers to see the familiar in a new light; gain distance from their own as well as their participants taken-for-granted assumptions; avoid forcing data into pre-conceptions; and to focus further data collection”

Glaser (1978, 57) provides a number of questions for the researcher to pose to enable the above to be achieved from the data, including:

- *‘What is this data a study of?’*
- *What category does this incident indicate?’*
- *What is actually happening in the data?’*

The first stage of analysis is known as ‘open coding’ (Glaser, 1992) or ‘initial coding’ (Charmaz, 2006). The researcher engages with the data, attaching a code representative to the concept per line or short segment of data. Initial coding was undertaken for all interviews and amassed over 300 initial codes. An example of opening code taken from Location C is shown in table 4.3.

Table 4.3 Open coding

<p>Do you know what, in my ideal world the last EEI meeting you attended you know where there were lots of bums on seats and that promotes healthy professional discussion and viewpoints and information and you know you just kind of suck it all in and you are trying to process it all and you just think yip this is what it should be about its not about one service, or police thinking, someone taking a view and saying this is the best way forward for that young person it’s all about the holistic discussions and taking on board everyone’s viewpoint and experience, their knowledge.</p>	<p>Ideal EEI Attendance Healthy professional discussion More than one agency Best for young person Holistic Knowledge and experience</p>
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Constant comparative analysis, another founding principal of grounded theory, involves comparing, “*data with data, data with code, and code with code*” (Glaser & Strauss, 1967) to find differences and similarities between initial codes and across data. This constant comparative method results in the formation of categories: the initial step towards conceptualisation of data. Table 4.4 provides an example of category formation, showing the initial codes which formed the categories.

Table 4.4 Category formation

Category	Codes
Partnership working	Commitment and responsibility Trust Well established-formed relationships Flexibility

The researcher may return to initial coding; however this will become less frequent as the theoretical development progresses.

During the collection and analysis of data, new and interesting questions and ideas will be generated, as will theoretical development of codes and concepts in relation to the research. These will be captured via memos: analytical, conceptual and theoretical notes, necessary for grounded theory research:

“[Memos] are the narrated records of a theorist’s analytical conversations with him/herself about the research data... memos are the analytical locations where researchers are most fully present (Charmaz, 1983), where they find their own voices, and where they give themselves permission to formulate ideas, to play with them, to reconfigure them, to expand them, to explore them, and ultimately to distil them for publication and participation in conversation with others” (Lempert, 2007, 247).

Memos will take place throughout the research journey, with the researcher’s analytical thoughts forming a vital part of theory development, the conceptual depth and quality are expected to improve if a robust theory is to emerge. Memos supplement and complement codes by providing another layer of analysis which contributes to the conceptualisation of data into theory. Memos then are analytic notes which prompt, refine and challenge the conceptual thinking of the researcher, linking data to theory by providing an initial draft of analysis (Charmaz & Belgrave, 2012). Thornberg & Charmaz (2014) list memos as including:

- “working definitions, codes or categories;

- Comparisons between data and between codes and categories;
- Identified gaps or vagueness in categories;
- Hunches, questions, or conjectures to be checked out and further investigated in research;
- Fresh ideas and newly created concepts;
- Comparisons between categories and a range of theoretical codes;
- Comparisons with and links to relevant literature.” (2014, 163)

Table 4.5 provides an example of a memo developing the category: *representation of young people and their families*.

Table 4.5 Memo development

Category: representation of young people and their families- it doesn't exist anywhere...there are no examples visible or discussion about how it could happen...discussion on this topic centres around the practical implications of involving young people as the main barrier [1/2]

Is the involvement of young people not genuinely considered by practitioners because it is not explicitly stated in the underlying values, policy, principles of which they so frequently refer to...

Could a similar consideration be made about other principles (or lack of)?

Restorative justice: not a stated aim or desire and therefore not considered? [2/2]

Diagrams are also integral to the creation of memos, visually presenting the links between categories and gaps in theory in a complementary fashion. Figure 4.4. is an example of diagramming used by the research to identify emerging core categories

Table 4.6 Core Category Development

Core Category	Categories, subcategories
Partnership working	Relationships Commitment and responsibility Trust Established relationships Flexibility Resources Flexibility Buy-in Power Process power Information power Experience Location

Properties included in the construction of this category included what the data revealed about why practitioners thought working in partnership was important and what conditions supported and limited their partnership working.

To reiterate, constant comparison will develop some categories, while others will become less substantial. Gaps and new questions will arise in the analysis which will require further exploration via theoretical sampling. Theoretical sampling adapts data collection in order to strengthen emerging categories.

The outcome of this phase of analysis, while being iterative, should be *“relational statements that link together or integrate and explain the action or processes apparent in developing the grounded theory”* (Birks & Mills, 2011, 95). Arguably the bridge between the medium and high levels of analysis is the development of ‘core categories’, which Mills et al (2006, 6) note is, *“the central point of a grounded theory...which integrates all of that theory’s various aspects”*. While the terminology and centrality of core concepts is contested amongst grounded theorists, it can be summarised as a category which can adequately capture the theme while integrating

all other categories and sub categories. Once the researcher feels the core category has been adequately saturated, the final level of coding can commence.

4.6.3 Creating High Level Concepts

The final aspects of analysis and theory development are found in the final section of the analysis and involve theoretical coding. Carrying out these final stages of the analysis allows the theory to both represent the data while showing relevance to the wider field. Strauss (1987) and Glaser (2005) both identify the process of theoretical coding as the most complex stage for researchers.

Theoretical codes are the '*conceptual connectors*' (Glaser, 1992, 38) which situate the emerged grounded theory to the wider existing literature. Opinions and perspectives from the work of others or Glaser's pre-existing 'coding families' are applied to the theory generation in order to "*augment, support and validate existing theories and in doing so explain and reinforce the value of your own contribution*" (Birks & Mills, 2011, 125).

This study employed a modified grounded theory methodology which means that within reason, the overall theory has emerged from the research findings in isolation from theoretical guidance. One of the limitations to the strict application of this approach, which is necessary in conducting a conventional PhD study, is the early development of research questions. The overall aim of this study was to examine how and why collective decisions were made in a Scottish youth justice context, with the following specific research questions:

- What are the governing principles evident in youth justice in Scotland, and particular in the practice of EEI?
- What are practitioner's reflections on how multiagency working functions in the context of EEI?
- What discourses are evident in the decision making of youth justice practitioners?
- What are the implications of this approach to youth justice for:
 - Children involved in offending behaviour age 8-18

- Practitioners, both involved in and affected by EEI
- The wider youth justice landscape

Neuman (2014) outlines the differentiation of levels of analysis at the micro, meso and macro level. Macro analysis considers societal processes which span time, such as institutions and whole societies; meso analysis would consider smaller communities and movements of interaction and process; finally, micro analysis describes closer interactions of a limited scale or number. The research and subsequent findings and development of theory reflect the aims set out by the research question and address issues at the micro, meso and macro level. Following the literature review it became apparent that research carried out which looks specifically at EEI practice in Scotland is limited (Papadodimitraki, 2016). Despite its relevance as the initial and arguably largest part of the WSA, the experience of practitioners and potential outcomes for young people in EEI is unknown. Practice at a micro and meso level has implications at a macro level, for example within the youth justice system itself. In analysing one area of youth justice practice (EEI), the research analyses the conceptual and theoretical implications of such practice. Applying this conceptual framing was helpful for the researcher to consider the findings to address questions such as: How is this working in practice; what influences the practice; what are the implications of this practice at different levels; how could practice be improved?

Similar approaches to the study of youth justice, and in particular community corrections, identified that:

“an inherent instability exists at all levels of the system: conflicts, manipulations, re-interpretations designed to subvert the rules by which the game is played yet simultaneously, while subverting the rules, intended also to ensure that the game itself continues” (Web & Harris, 1987, 3).

This level of complexity has been addressed earlier in the literature review where the intricate relationship between the influence of principles on policy and practice has

been discussed (Section 2.2.3). By analysing the logic and the reality of diversion and EEI, the complex relationship of and between each analytic level can be understood; and is a central finding of the research overall. The methods and approach implemented allowed for in depth study of the practice of EEI, using both the perceptions and experience of EEI practitioners, supplemented by the observations of the researcher.

The second aspect of theoretical coding which was applied to the analytical development of the findings was the application of Cohen's theory of social control. Evident in the findings was a duality between the stated benevolent intentions of EEI and the potential negative consequences. By retrospectively applying Cohen's theoretical framework, alongside the conceptual levels of the micro, meso and macro, the complex findings were able to emerge which show inherent tensions played out in EEI practice around decision making based on wellbeing and the net-widening and blurring implications of such practice.

To return again to the earlier metaphor employed by Cohen in chapter 2 (section 2.3.1), while examining the range of the nets and the experience of the fish, it becomes apparent that there is a ripple effect within the rest of the sea, which also merits consideration and is critical to our overall understanding. By applying the analytical framework of micro, meso and macro the findings which emerged from the data have been applied to wider theoretical structures which increase their applicability and relevance.

4.7 Ethics and rigour

The final section of this chapter will discuss the ethical issues which the researcher has encountered; and considers the application of strategies which serve to ensure the rigour of the research.

For Isreal & Hay (2012) the importance of ethics is threefold: firstly, to protect the rights of individuals, communities and research environments; secondly to ensure standards of research integrity are upheld; and lastly, to provide accountability.

Ethical considerations should be paramount in all research projects, throughout and considered at each stage of the research process.

A conventional minimum expectation is that an application will be provided to an ethics committee, in order to, “*check the quality of (planned) research in its ethical dimensions*” (Flick, 2007, 122). The researcher received ethical approval by the University of Strathclyde Ethics Committee in year one of the research journey. In order to receive the consent of the committee the researcher had to address a number of procedural issues in order to ensure ethical codes and standards were upheld. The research did not involve any vulnerable populations, for example children, or discuss sensitive topics; therefore there was very little risk to participants or the researcher and permission was granted. In addition, a number of the local authorities who agreed to participate as case studies required their own ethical procedures be completed. Flick (2007) notes, formal approval does not ensure against ethical issues arising in practice.

4.7.1 Gaining Access

Many of the complexities in gaining access related directly to the research taking place in a multiagency context that varied between locations. On reflection this issue may have been overlooked following a successful period of engagement from practitioners with the scoping study. While ‘gate-keepers³³’ are often identified in the literature as a helpful way to gain access to groups, it was often hard to identify exactly who the most appropriate gate-keeper was. The researcher, where possible, approached the EEI chair or co-ordinator in the initial instance. On occasion, they would have to refer permission to the Local Authority or Police, as holders of the information discussed at the meetings. Negotiating these multiple layers of consent was time consuming and had an impact on the local authorities chosen.

³³ Gatekeepers are individuals who can be used as an entry point to a specific community (Given, 2008).

4.7.2 Gaining consent

A standard ethical consideration is the importance of receiving consent to participate in a voluntary and informed way. Informed consent specifies that “*subjects have the right to know they are being researched, informed about the nature of the research and their right to withdraw at any time*” (Ryen, 2004). In order to obtain informed consent the researcher provided information sheets prior to data collection taking place (Appendix C, D, E). Information sheets were written in plain English and every attempt was made to ensure they were jargon free; this was approved by the ethics committee. The information sheet provided details about the research including: the aims and purpose of the research; the reasons participants had been selected to take part; and what involvement in the research would entail.

The extent to which the participants are fully informed corresponds with the extent to which the researcher can, and desires to, determine the direction of the study. This is a particularly prevalent issue in regards to the grounded theory methodology being applied in this study and therefore information sheets were frequently updated to ensure that participants were aware of the researcher’s most up to date thinking. The information sheets explicitly state that there is no direct benefit to taking part and those participants are free to withdraw from the study at any time, ensuring their participation is voluntary. The information sheet was given with sufficient time for deliberation, before people were required to decide on participation. Consent to be interviewed, audio recorded and observed during meetings was all confirmed via a signature from the participant.

4.7.3 Anonymity and Confidentiality

Anonymity is achieved by removing any unique identifiers, such as name, from the data and has been done throughout the research by pseudo-anonymising participant responses and information using a unique identifying code. Additionally, the names and locations of interventions and specific circumstances were altered, this including the location of the cases. These assurances are extended to all dissemination and publication of the research.

Acknowledging the researcher's intention to uphold anonymity and confidentiality, case study areas and participants were made aware of circumstances which may jeopardise this. There is debate among researchers regarding which information to reveal and remain concealed. Lincoln & Guba (1989, 233) admit that '*confidentiality and anonymity obviously cannot be guaranteed*'. The concern in this research project was that of deductive disclosure, where the disclosure of traits or experiences make individuals, or in this case, groups of individuals identifiable (Kaiser, 2012). The researcher had to balance aspects of the research which are important to disclose, for example occupation of respondent, against the potential for the participant to be identified by both those involved in the research and those external reading the report.

Scotland is a relatively small country in terms of youth justice practice, compounded with the earlier noted in-uniformity of the EEI landscape, means that case study locations and the practitioners within them could be identifiable. The decision not to publish the occupation of the participant alongside their response was made with the aim to reduce the risk of exposing the participant's identity.

The caveats of full anonymity were explained to respondents prior to their participation. In acknowledging this potential concern, the researcher provided participants the option to request to review their interview transcript up to one month following the interview, but no participants did. Thereafter information could not be withdrawn from the transcription or any subsequent findings.

4.7.4 Achieving rigour

The concept of achieving rigour in qualitative research is akin to 'quality' of research, however avoids more quantitative terms such as 'validity'. This area receives considerable debate within the literature, centred on the paradigm split discussed in section 4.3 of this chapter (Birks & Mills, 2011). The researcher, influenced by the

pragmatist perspective, accepts that attempts should be made to ensure a degree of trustworthiness in the research process and outputs. Yin (2003) addresses at length the potential for case study methodology to provide both theoretical and empirical research which can be generalizable. Equally, Glaser & Strauss (1967), advocate that the proper application of grounded theory methods provides rigour and structure to qualitative study. This section will detail how the researcher endeavoured to ensure a rigorous approach, using audit trails, triangulation, and reflexivity.

Providing a clear audit trail of research, including research events and decisions and the rationale behind them, helps to inspire confidence in the findings by providing integrity (Birks & Mills, 2011). In this study the researcher provides details of the research journey in a narrative outline in section 4.2, to support the reader in determining the points at which key methodological decisions were made and their impact on the research approach. After an initial data collection phase the decision was made to implement modified grounded theory techniques. Without clarification, the methodological congruence could be called into question and open to scrutiny, as the reflective application of modified grounded theory is one justification for not applying grounded theory in its purest form.

The utilisation of multiple methods provides an opportunity for triangulation as a way to increase the rigour of the research:

“Triangulation is a validity procedure where researchers search for convergence among multiple and different sources of information to form themes or categories in a study” (Creswell & Miller, 2000, 126).

Triangulation involves substantiating codes and concepts found in the data through one particular method in another method in order to increase the validity of this concept being a true reflection of the data. In this research the wellbeing concerns of young people were a significant consideration in decision making at EEI, descriptive statistics revealed that wellbeing concerns were only raised in 29% of the cases discussed. The relevance of this is discussed later in the findings chapters (5).

The nature of research accepts that the researcher takes an active role in shaping data collection and analysis (Thornberg, 2012). This is particularly prevalent in qualitative research. Grounded Theorists, as well as other qualitative disciplines, employ reflexivity to recognise and reflect on the influence of the researcher's underlying assumptions, biases and experience. For May & Perry (2014, 111):

“Reflexivity is not a method, but a way of thinking or critical ethos, the role of which is to aid interpretation, translation and representation...it is an iterative and continuous characteristic of good research practice”.

Grounded theory incorporates a number of methodological aids to support the process of reflexivity, for example producing memos (Dunne, 2011). Memos are the researcher's analytic thoughts which form the analysis subsequently linking the data to the final emergent theory. As memos are developed directly from the data, *“the researcher thus avoids forcing data into extant theories”* by undertaking a process of internal reflection (Charmaz & Belgrave, 2012, 358). Suddaby (2006, in Dunne, 2011, 118) states reflexivity involves being, *‘continuously aware of the possibility that you are being influenced by pre-existing conceptualisations of your subject’* and arguably producing memos could serve to explore these possibilities. Additionally, Charmaz & Belgrave (2012) attest that in addition to collecting a breadth and depth of data, the grounded theory principle of iterative data collection and analysis supports researchers to continually reflect on the data and minimises the potential to draw unsubstantiated findings.

4.8 Conclusion

Chapter 3 outlined the central tensions inherent in youth justice policy and gave an overview to EEI as a practice of youth justice in Scotland. The central position of EEI in the Scottish youth justice landscape and the relatively little academic investigation, combined with current trends in youth justice being anecdotally linked to such approaches, made it a timely and worthwhile area of investigation for PhD study.

This study therefore aimed to explore decision making in a Scottish youth justice context using combined methodologies and multiple qualitative methods. This chapter has outlined in detail the research journey in relation to the methodological decisions made in this study. It details the researcher's pragmatic epistemological stance in reference to the decisions which have been made. This chapter has shown how case study and grounded theory methodologies can be combined to study in-depth cases. Within cases, multiple qualitative methods have been applied to achieve a clearer understanding of a complex practice environment. While researching within multiagency settings raised complications in gaining access to participants, mixed methodologies and multiple methods were suitable in achieving thick description of the phenomenon under investigation.

The findings presented in chapter 5 and throughout the analysis and discussion in chapter 6, 7 and 8, represent the data collected in three case study locations in Scotland which were analysed using modified grounded theory. While the findings chapter (5) seeks to show the development of the modified grounded theory in as clear and robust nature as possible, the final presentation of the findings and related analysis and discussion (chapters 6, 7 and 8), do not follow a linear development from the core categories, as to be expected in a modified grounded theory. By applying theories from Stanley Cohen's *Visions of Social Control* (1979), discussed extensively in chapter 2, and acknowledging the complex relationship between micro, meso and macro intentions and outcomes, this study will go on to show that while EEI represents practice influenced by benevolent intentions there may be a range of negative unintended consequences for practitioners, young people and the youth justice system which stem from inherent tensions in the system.

5 CATEGORISING THE DATA

Themes which emerge from the data, collected through interviews, observations and descriptive statistics cover; the values underpinning Early and Effective Intervention (EEI); the complex reality of EEI in practice; and the potential impact of EEI on young people, practitioners, and the youth justice system more broadly. Findings suggest both unifying and disconnected values serve to support, to an extent, EEI practice. Practice under EEI appears to be inhibited by pre-existing power structures and external influences. Findings also suggest that EEI decision making may employ negative internalised decision making criteria and a disregard for rights in the process, due process, and the role of children and families.

5.1 Introduction

The previous chapter (4) addressed the methodological complexities of applying modified grounded theory methods alongside case studies. It highlighted the iterative nature of grounded theory analysis across and within case study locations, to develop a conceptually sound theory built from the data while also being comparable to existing literature.

This chapter presents the findings as they emerged and developed from the data through a process of continual comparison in line with modified grounded theory practice. Initial introductions to the study locations are provided to give context to the settings in which the responses emerged (section 5.2). Section 5.3 seeks to illustrate the emergence of the categories, developed from the initial codes from interviews conducted with professionals involved in EEI decision making. Presenting a selection of the findings in this way is deliberate to show the workings of developing the theory from the categories which emerged from the initial data codes. 32 categories were developed from the initial interview codes. The categories have been presented to highlight the emergence of 8 core categories (see table 5.1), subsequently in section 5.4 these are applied to the observation data.

Table 5.1 Categories to Core Categories

Categories	Core Categories
WSA ethos and language Holistic Decision Making Partnership Working	Policy Values
Victims Offending is symptomatic Consequences and accountability	Alternative Values
Professional Perspectives Check and balance Same end goal	Professional Perspectives
Power and equality between partners Joint decision making Chair decision making power Third Sector Education	Decision Making in Partnership
Intervention Pre-emptive decision making Decision to monitor Thresholds and tiers of service Eligibility Criteria	Values and Decision Making
Proximity of the child Young people: information and representation	Decision Making and Young people
SCRA and EEI Thresholds and Decision Making Process issues External influences Utilise Intelligence	EEI & the System
Lack of commitment in EEI Leadership Need/ Role to promote EEI Core or additional business Resources Service Gap	Agency Commitment to EEI

Core categories developed from and refined across all data from all locations provide the basis for conceptual and theoretical analysis which emerges as a grounded theory presented within three chapters (6,7,8). Broadly speaking, the core categories can be divided between the discussion chapters (table 5.2.) based on micro, meso, and macro issues. The interconnected nature of these analytic themes, and the grounded theory methodology itself, mean that the application is not linear and there is a degree of movement resulting in themes from core categories cutting across analytic chapters.

Table 5.2 Core categories to grounded theory

Policy Values	Chapter 6: How is EEI understood and practised?
Alternative Values	
Professional Perspectives	
Decision making in Partnership	
Values and Decision Making	Chapter 7: What issues and concerns does it raise?
Decision Making and Young People	
EEI and the system	
Agency Commitment to EEI	Chapter 8: What is to be done?

Theoretical analysis will be applied to chapters 6, 7 and 8 to conclude that the findings suggest a duality of benevolent intentions and negative unintended consequences, in the values, reality, and outcome of EEI. The analysis and discussion of findings of this research will go on to develop that EEI represents practice which is influenced by benevolent intentions of the understanding of diversion. Such diversion may contribute to forms of net-widening, through dispersal of interventionist powers to create 'business as usual' as an additional layer of the youth justice system. Analysis is also applied to consider what we do next in terms of both practice and theory.

5.2 Location Findings

This section provides a summary of the study locations, highlighting areas of divergent practice and local specificities, and in particular, reference to the demographics of the young people referred to EEI. The total amount of time spent in each location was based on attending at least 4 EEI meetings to collect a reasonable amount of data through observations, in addition to interviewing participants of EEI. Over this period the researcher was able to develop an understanding of local practices and location specific issues.

5.2.1 Location Summaries

Location A is one of the larger local authorities in Scotland, comprising of both rural and urban areas and its size relative to the other locations in the study is represented by the comparatively high number of referrals. Through the observations and interviews it emerged there was a degree of uncertainty regarding the identity of the Chair of EEI group; however as the Police hosted they often assumed the role of Chair. EEI meetings are held weekly in this location due to the high number of referrals. The EEI group is noted as being well established with long standing membership extending to Police, Social Work, Education (via the Educational Psychological Service), various Third Sector organisations, and Local Authority services such as Community Safety. In addition, Location A also operated a strategic review group which sits above the operation group.

Location B comprises mostly urban areas. The Local Authority divides EEI into locality areas, one of which was the focus for data collection in Location B. The monthly meetings are chaired by Social Work and the diversity of attendance is attributed to a learning community model, which sees Police, Health and Social Work co-located within local schools. It should be noted this is one of the few areas in Scotland where Health is represented at EEI meetings, in this case via the school nurse (see scoping study, chapter 3, section 3.9). In contrast to the other two locations, B operates an additional layer of single agency screening for EEI referrals (in addition to Police pre-referral screening) conducted by Social Work duty staff for the whole Local Authority.

This may account for the low number of referrals comparative to the size of the locality.

Location C can be characterised as one of the smaller local authorities in mainland Scotland, comprising of mostly rural communities. The location holds fortnightly multiagency meetings and, uniquely, they are chaired by a Third Sector agency which operates in the area. The Third Sector agency is able to chair due to its long standing and well-regarded work in the area of justice and youth justice within this and neighbouring local authorities. During the period of data collection regular attendees were present from Police Scotland, Education (including teachers and support staff) and to a lesser extent Social Work. During data collection it became apparent, and was confirmed in interview, a recent issue had arisen regarding dwindling commitment from Social Work, leading to poor attendance at the meetings. This location, and Location B, reserves the option to review cases to monitor the suitability of the decision and the perceived effectiveness of the intervention. If there are still concerns regarding the young person, their behaviour or engagement further action can be taken, otherwise the case will then be closed to the EEI process. In comparison, in Location A cases are closed to EEI as soon as a decision has been made.

5.2.2 Descriptive Statistics³⁴

This section provides demographic information regarding EEI referrals both across and within locations. These data are not normally gathered and therefore were collected via observations. The collection of these data is important in attempting to understand the nature, characteristics and outcomes of referrals to EEI.

³⁴ Tabled results in regards to all variables collected in this study can be found in Appendix 11.7 and include remorse, use of drugs and alcohol in offence, vulnerabilities, and details regarding previous referral to EEI etc.

5.2.2.1 Referrals

Location	Referrals	
	Number	Valid Percent
Location A	110	78.6
Location B	9	6.4
Location C	21	15.0

Table 5.3- EEI Referrals by location

A total of 140 referrals were made to EEI during the 12-week data collection period across the three locations (Table 5.3). Location A has the highest number of referrals (n=110); nine young people were discussed during the four-week data collection period in Location B; and 21 young people were discussed at the EEI meetings in Location C.

5.2.2.2 Gender

Location	Referrals by Gender			
	M		F	
	No	%	No	%
Location A	79	71.8	31	28.2
Location B	6	66.7	3	33.3
Location C	18	85.7	3	14.3

Table 5.4 Percent of referral by gender within each location

In line with general trends in offending behaviour³⁵ more boys (73.6%) were referred to EEI across the case study locations than girls (26.4%) (Table 5.4). During one interview the relationship between gender, risk, and processes was discussed and the potential for young girls to be dealt with in other systems due to a heightened perception of risk was explored.

5.2.2.3 *Age*

Figure 5.1 provides a breakdown of referrals by age within each case study location. The most common age referred across the case study locations is age 15 (30%); the lowest age is 10 (1%). Sixteen & 17 year olds only comprise 16% of overall referrals; the potential explanations as to the relatively low number of referrals for this age group, against what may be expected due to their propensity to commit crime, is discussed in chapter 6 (6.3.8). Referrals for those aged 8-12 comprise 30% of total referrals. A recent change in legislation to the minimum age of criminal responsibility in Scotland means that in the future these young people will not be charged³⁶.

Unlike Location A and C, Location B had no referrals for young people under the age of 12; while the cause of this is unknown the researcher strongly suspects the additional screening process in this location is a contributing factor.

³⁵ “For youth offending there are similar criminogenic risk factors which apply to both boys and girls, i.e. anti-social attitudes, pro-criminal families and associates, lack of parental supervision and unstructured leisure time. Girls are less likely to be referred to a Children’s Hearing on offence grounds and are more likely to have originally come to the attention of the Children’s Hearing System (CHS) as a result of being the victim of an offence, such as neglect or sexual abuse” (CYCJ, 2017,7).

³⁶ An amendment was tabled in the Criminal Justice (Scotland) Bill to raise the age from eight to 12, bringing it into line with the age of criminal prosecution, in 2015. This was defeated on the basis that the Scottish government agreed to further consultation on the issue. An Advisory Group on the Consultation on the Minimum Age of Criminal Responsibility was set up, which invited recommendations in relation to potential amendments. In December 2017, the Scottish Government announced the decision to raise Scotland’s age of criminal responsibility from eight to 12, following extensive consultation with stakeholders.

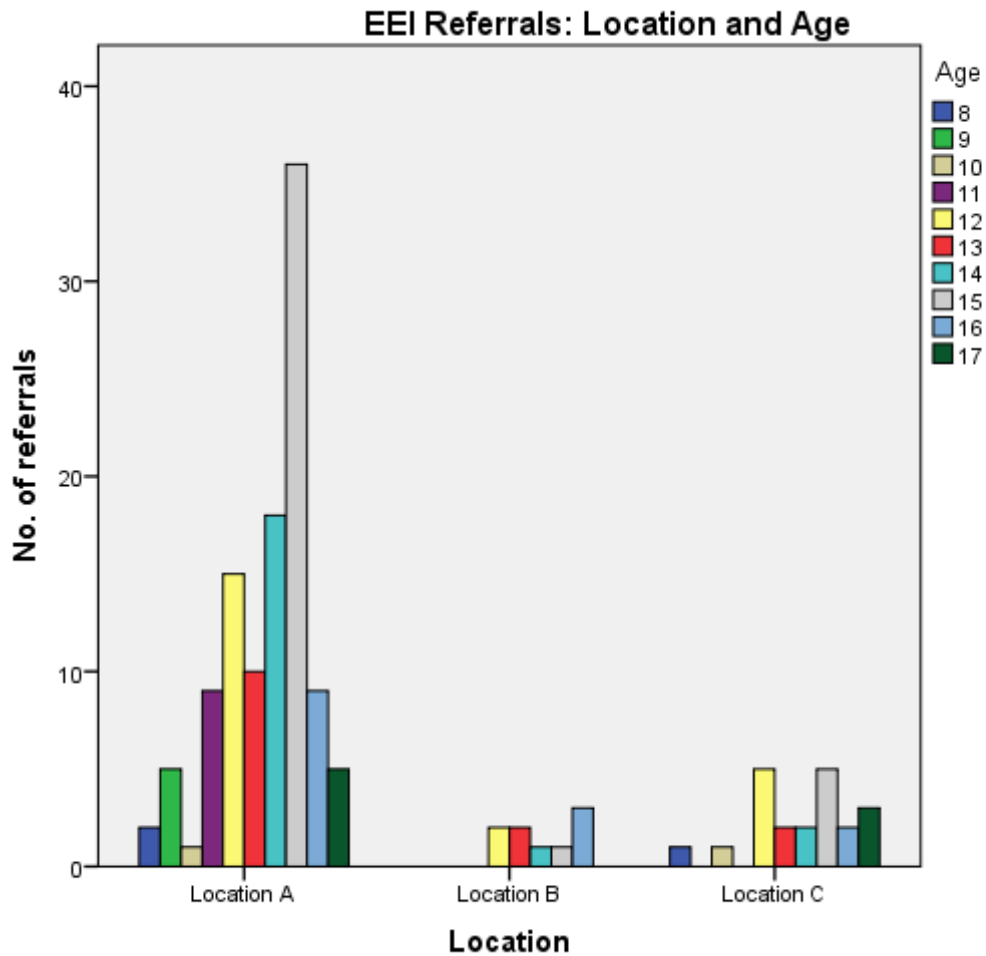


Figure 5.1 Referrals per Location by age

5.2.2.4 *Offences*

The Lord Advocates Guidelines³⁷ contain guidance to Police Officers in Scotland on the categories of offence which require to be jointly reported to the Procurator Fiscal and the Children’s Reporter, and are therefore deemed ineligible for EEI referral. Figure 5.2 shows the range and frequency of offences committed across the case study locations. The range of offence types referred was significantly higher in

37

http://www.copfs.gov.uk/images/Documents/Prosecution_Policy_Guidance/Lord_Advocates_Guidelines/Lord%20Advocates%20Guidelines%20-%20Offences%20alleged%20to%20have%20been%20committed%20by%20children.pdf

Location A than in Location B and C due to the decision to discuss all offences committed in the former location and provide the EEI discussion and suggested decision along with the joint referral.

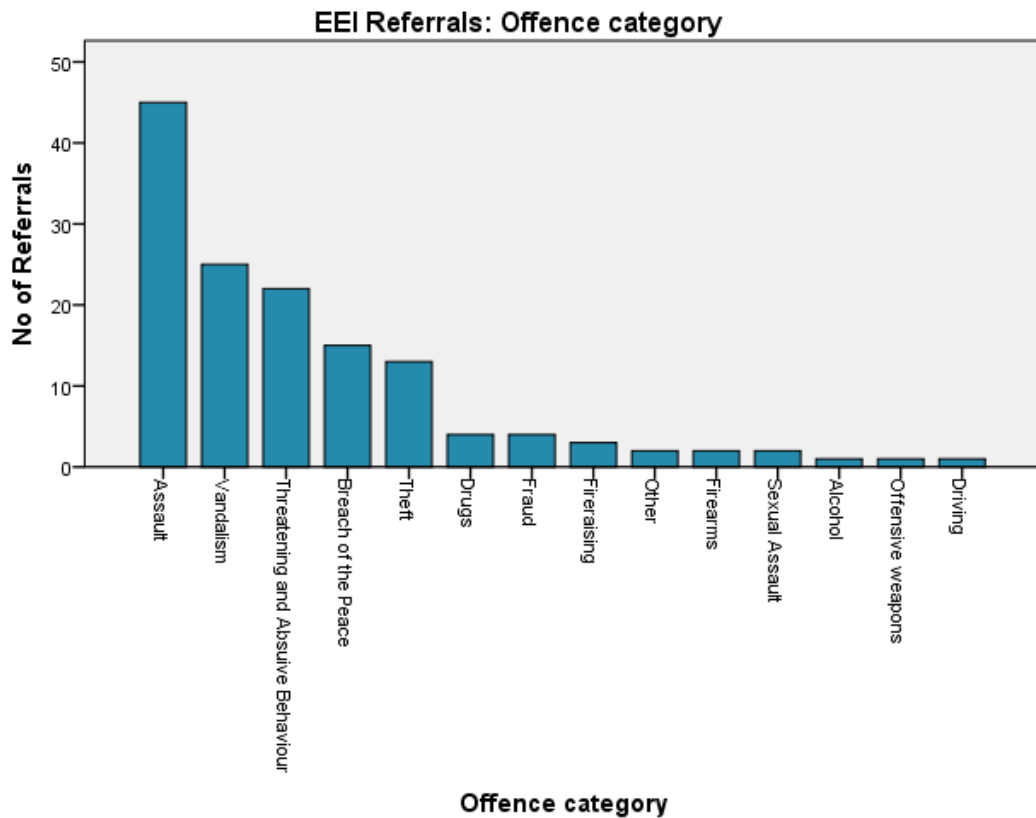


Figure 5.2 Offence type committed

Assault (34.5%) and Vandalism (19.1%) made up the majority of referrals across all locations. Referrals for offences in fewer categories (5 out of 15) occurred in Location B compared to the other locations, with just under half of referrals being for Breach of the Peace (44.4%). A similarly high number of assault offences were noted by participants in Location C as a concern.

5.2.2.5 *Decision*

The decision made most frequently across the case study areas was to refer a young person to work with an agency (51%). Only one Police Restorative Justice Warning³⁸ was issued across all locations; and only 5% of cases were 'no further actioned'. The range and frequency of decisions across the locations are displayed in figure 5.3.

The decision of the group was to refer to an agency in almost half of all cases in Location A and C. The frequencies would also suggest that Location B does not utilise the range of decision options available (see Core Elements, 2015) as 66.7% of cases were no further actioned and the remaining 33.3% were referred onto an agency. Decision outcomes are discussed at greater length in chapter 6 (sections 6.3.6).

³⁸ Delivered by a trained RJ Police Officer, the warning aims to look at the circumstances and consequences of the offence whilst addressing the impact on the victim.

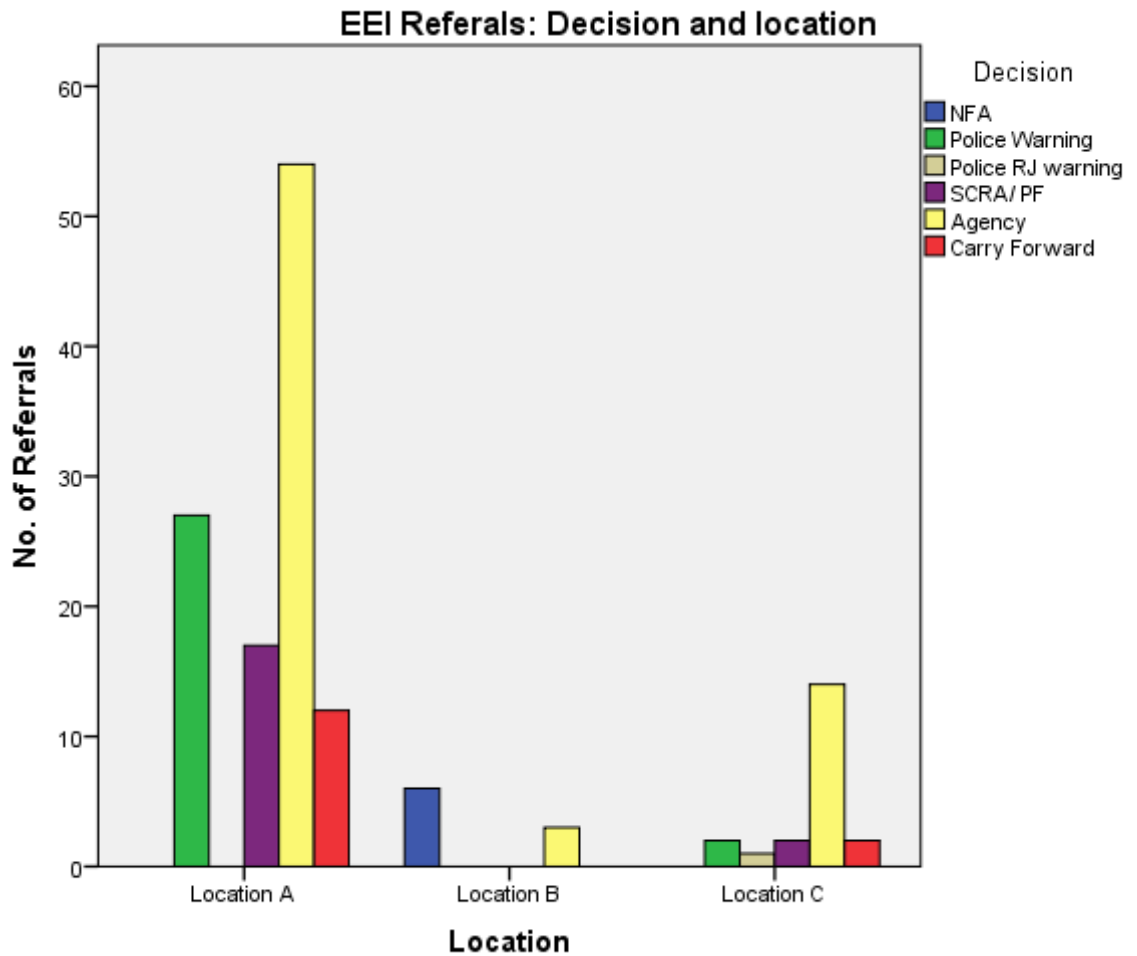


Figure 5.3 Referral decision by Location.

5.3 Findings

The tables within this section of the chapter provide exact quotes as collected from the data to highlight the similarities between the data and codes. The quotes are not an exhaustive list of all data assigned to the category but rather selections of quotes which best represent the properties of the category. Practitioner statements are identified by a unique code (P). Categories are introduced by their core category grouping, which provides a brief introduction to the connections between categories from across the data collection methods.

Core Category A: Policy values

Participants were asked to identify the values that they felt underpinned their EEI practice in relation to answering the research questions which centred on principles and discourses in EEI. The frequent use of policy terminology was noted early on and its potential impact on decision making would later develop into a major theme of the research.

Category 1: Whole System Approach (WSA) ethos and language

Interviewees spoke of legislation and policy which relates directly to EEI, for example, the Whole System Approach or GIRFEC. Additionally, the EEI principles of timely, proportionate, and effective, as set out in the Whole System Approach were often referred to both directly and indirectly in terms of the remit or role of the group. Codes that formed this category included WSA/ GIRFEC values; Overarching Principles; Prevent further offending; Divert from systems; Timely, appropriate, proportionate.

Relevant Quotes

Look at each child individually and make the best decision for that child looking at everything that's going on in their life. It's really enshrined in GIRFEC and WSA values underpin it. P3

The group has been established to try and intervene at an early stage...and plan a way forward for that young person to divert them from going deeper into that system. P7

I think the reduction of inappropriate referrals to the reporter, the kind of speedy response and matching interventions appropriately to suit the young person's needs. P18

The remit for me is about trying to get timely and appropriate responses to youth offending...trying to get the right resources at the right time and looking at their offending in context of their age and stage of development. Prof 13

Category 2: Holistic decision making

Professionals frequently acknowledged the requirement to look at all aspects of a young person's life, in recognition that issues which arise in other areas of a young person's life can impact or influence their behaviour. Codes that formed this category included young person at the centre.

Relevant Quotes

We look at the young person and their whole life, so everything from how they are doing in school, is there any welfare concerns at home, what's the family make up, previous offending, how well have they engaged and what are their thoughts and understanding of the system too. P17

We all as partners strive to take a holistic view and look beyond purely the offence or the offending behaviour and consider other factors that can impact on that...what's happened in that child's life their home life and maybe factors that sit within the community... its taking that holistic view and looking beyond what's presented in terms of the offence. P18

Well we're looking at that individual and it's a holistic view of that person...it starts off as an EEI but what happens is it can actually turn into health issues or substance misuse or relationships with family members...its looking behind that and digging a wee bit deeper. P6

Then I'm assessing a child it's not purely based on the offence, its looking at everything and any other information we have in relation to concerns about their family life, if they are truanting from school... P2

what's really important is keeping the young person at the centre P1

Category 3: Working in partnership

A key aspect of EEI as identified by participants was issues around working in partnership, and as such was frequently raised by respondents. Largely working in partnership in EEI was viewed positively. Factors such as trust, respect, knowledge of each other's roles and understanding the level of commitment were all discussed in relation to working in partnership. Codes that formed this category included: Relationships; Commitment/ responsibility; Trust; Well established and comfortable

Relevant Quotes

I think because the group is well established we are all very comfortable with each other and know what services we each provide. P17

I think there's also a mature partnership within the group, its well established. People do commit and that continuity of representation allows us to work more effectively because we do know each other and become fairly confident in each other's understanding of things. P18

People know what each other do. There is a huge level of trust that if someone says they are going to do something they will do it... I think having consistency of membership is really important and I think that it is just about trust and knowing what each other can deliver. P13

But it's also based on I suppose knowledge of the individuals you are working with and developing a respect for their professionalism... I would say there is a mutual trust and respect between the agencies. P3

Core Category B: Alternative Values

A second set of values also emerged from the data, albeit less frequently and consistently across both area and agency, and interestingly had the potential to contradict or be in conflict with the previously noted policy values.

Category 4: Victims

While not identified as a shared value, recognising the victim was identified as a potential consideration when making decisions about young people referred to EEI, including their need for a service or the implications of targeting repeat victims.

Relevant Quotes

Because I work in [community safety] I'm very aware there is a victim of that offence as well and what service we are giving that victim so in that sense yeah I would argue for cases to go to [agency] just for victim participation. P17

I think the police have to consider repeat victims, has the victims been targeted for who they are. You all come at things from a slightly different angle and while its all about the offender at these meeting we, as the police, have to take into consideration the victims. P11

There isn't a particular focus on victims and maybe that isn't part of the remit of the group as it stands just now but it's a very important part of the whole kind of process of an offence. P14

Category 5: Offending is symptomatic

There was a strong belief amongst professionals that offending is symptomatic of an underlying need in an area of a young person's life, often related to their welfare. This was used as a way to 'see past the offence' and maintain a child-centred response from professionals.

Relevant Quotes

I think that we are very focused on needs rather than deeds...and that's because ...the understanding that offending is symptomatic of something else rather than behaviour in itself. P14

I think they tend to see the young person, I think all have an ability to empathise with the young person and they do say 'well when you put it into the context of the housing estate they live on' or 'I know the extended family' information like that...everyone round the table is able to understand that it is likely that that's had an impact on why the young person has committed that act. P4

Offending is rarely in isolation, we need to take cognisance of the welfare needs of these kids P1

But for me if they are offending then there is a whole set of other stuff going on for them. P1

Offending is a symptom. If kids are offending they are basically telling you something in relation to their behaviour. It's about the child the whole kid and it's about looking at the holistic world of that child. P3

Category 6: Consequences and accountability

EEl was seen to provide an opportunity for young people to take responsibility for their actions and understand the potential consequences of being involved in such behaviour. It followed that reoffending would not occur if these lessons were learned.

Relevant Quotes

I think it gives young people the opportunity to not offend and then if they do they know the consequences of that. P6

I think it's good that we identify and acknowledge the charges...there are consequences and this is part of what you have to go through to prove that you're not going to be picking up more charges. So I think that's good cos you are making them accountable for the charge that they have. P6

I think it's a good way to engage with the kids, teenagers, offenders rather than going straight in with a punishment. It's a good chance for them to realise the reasons and repercussions. P5

So for a lot of referrals to EEl it will be their first offence and for many it will be their last, because they have learned from their mistakes. And I think that that's a vital part of the process that these kids do realise and do take responsibility for their actions. P5

Core Category C: Professional Perspectives

Respondents discussed perspectives between agencies regarding the extent to which values of agencies were synonymous and the degree to which the values provided a mechanism to work together at EEl.

Category 7: Professional Perspectives

Participants acknowledged that varying professional perspectives and accompanying thresholds existed between partners and that this could be problematic. However, they were considered inevitable due to different working practices, knowledge and understanding, and priorities within agencies.

Relevant Quotes

I mean we've still got threshold issues. We all use the same language but obviously education's thresholds and perceptions of what is a major incident is very different, rightly so, from the thresholds of other agencies and vice versa. P8

I think different agencies have different philosophies, different values and whilst we all share a common goal I think there is still that difference in how people would approach things and I think it's good to have that balance within the multiagency group. P13

*If there is anyone who has slightly different values or opinion on that it would be police but it's only because of their systems and the way they work. P19
But social work might not want that to happen because that young person has other difficulties which are influencing that behaviour and they want to address that first. P17*

I think the police are very much, 'this is what we have to do'. Whereas from social work and health's point of view there are other factors as to why it has happened. [Police] are quite blinkered to the bigger picture. P6

Category 8: Check and balance

One respondent gave an example of how difference of professional perspective can arise through the comments made in Police reports. They highlighted the EEL membership had a role in providing a 'check and balance' to potential professional bias.

Relevant Quotes

Sometimes the police report can say they lack empathy, they showed no remorse... but at the time of caution and charge might not be the best time, or that agency might not be the best to get that information...do they actually have Asperger's and it's not that they are cold and callous. So I think multiagency can put a balance on the spin that's in police reports. I think we can check and balance somethings the judgements that are made. P13

Category 9: Same end goal

A common end goal, although often articulated in different ways, was identified as existing among EEI members and despite varying professional values and perspectives supported the effective work of the group.

Relevant Quotes

We all have the same end goal. We all want what's best for the young person and they are very much at the centre of the decision making process. We might have different views about how to get that end result but ultimately the group's job is to stop young people reoffending by engaging with them and carrying out meaningful and proportionate work. P17

We all have different opinions and we all look at different aspects of that young person's life but I think we're very mindful that we all want the same end result. We always manage to come to some sort of resolution or compromise. P17

I think everyone round the table has the best interest of the child at heart and shares the same values and wants the same outcome. P19

Core Category D: Decision Making in Partnership

Multiagency working was a strong emergent theme in the data relating directly to the second question set out in the research aims in chapter 1. Having been identified as a core EEI value, this core category highlights participants' understanding of how partnership functioned in practice and issues which influenced effective multiagency working.

Category 10: Power and equality between partners

While respondents did not feel there was a hierarchy between partners, nor was any one agency definitively identified as holding more power than others, factors were identified which had the potential to influence who had the most power in terms of decisions being made. Factors related to process (particularly for the Police); the location of EEI; information power; and finally rank, experience, and expertise. Codes included in this category included: Process power; Location; Information power; Experience; 'Their kids'.

Relevant Quotes

I think sometimes for example the police will say, 'no a report has went in' and if a report has went in there nothing we can really do...however if the young person is open for discussion and ready for a disposal then yes we are all equal around the table. P17

I don't think it's wholly equal but I don't think there is a hierarchy. I think probably because education and social work have the most information and are probably the biggest players in terms of supporting young people. So yeah I do think they are best informed. P19

I think social work, any of their kids, any open to social work tend to make more of a decision and they'll explain the reason why. They say the child needs referred to SCRA then they kind of take the lead... I would say

*education, social work and police have a bit more but that's just my opinion.
P12*

There's probably an unsaid hierarchy in the room. I think it's a bit of both [down to agency and individual]. If [name] isn't there and it's one of [their] colleagues the gravitas changes... so I think we all turn to [them] for their expertise, knowledge and skills...however there is a likelihood that it unduly influences decision making at times. I think the point about rank and experience is important too.p14

Category 11: Joint decision making

Despite factors being identified which suggest power exists within the group and can be transferred between agencies, respondents frequently noted that decisions were often collective and were based on a collective view.

Relevant Quotes

*So I feel it's very much a joint decision...it's very much a collective decision.
P8*

I think over the time they were collective decisions...the chair always has, ultimately the way it was set up and the processes, ultimately the decision rests with the chair....I wouldn't say there was one part of the partners sat round the table would have an inappropriate level of decision making authority. P3

Category 12: Chair decision making power

Final decision making power was identified as resting with the EEI chair, by both the chair themselves and by other EEI participants, however this was viewed necessary for efficient decision making practice.

Relevant Quotes

I would like to think I create a meeting whereby views are shared and heard and ultimately it is the chair's final decision but I would like to think that I do take on board the views of the professionals that are there. P1

There have been conflicting opinions but that's why we have a chair at the end of the day, to make a final decision once everyone has had their say. P2

But there is the chair obviously of the EEI who makes the decision and it's open for people to agree or disagree at any point. P7

I try through a consensus to come up with a decision but I guess at the end of the day it's up to me to make the decision as to what are the various options that are appropriate... P4

Category 13: Third Sector

Issues surrounding inclusion of the Third Sector were also raised by respondents both from Third Sector agencies and out with the Third Sector. Third Sector agency respondents questioned if they were equal, respected, and included partners, particularly in Location C where a Third Sector organisation chaired EEI. From out with the sector, concerns were raised about sharing information and the interests of referral taking agencies.

Relevant Quotes

It's probably more difficult for us in the third sector because other partners are quite close, they are more similar, maybe in and out of each other offices so they are able to build up a bit more of a relationship. P19

We all sign up to the confidentiality agreement but I can understand people being slightly concerned with sharing information with non-statutory services. P14

I did wonder about being the only local authority where it's the third sector who are providing EEI, I wonder if it was SW would it have a bigger priority in people's agendas P1

Category 14: Education

Education as a partner agency was identified by respondents in broadly two capacities. Firstly, in having key role in EEI due to their sustained engagement with most children and secondly, Education representatives were identified as having disproportionate thresholds and values and a propensity to want higher sanctions, often due to their proximity to the child. Codes from this category included: Education lack of understanding; Education key partners; Education information sharing; Education DM.

Relevant quotes

From our point of view [education] its wonderful because we didn't always necessarily know about kids and their offending behaviour before and now it helps to put another piece of the jigsaw together P8

[education] struggle to see the difference between that type of behaviour in the school and also the fact that young person has been charged with an offence P1

I think sometimes our education colleagues might like to see more being done and they don't feel that for example a warning is sufficient. They feel that more is needing done but they are coming at it differently from their experience of their behaviour in school. P1

It's about SHANNARI and GIRFEC and all that sort of stuff and I don't think education see that because you are talking about offending behaviour that 99.9% of the time is community based, so it's like 'why are we coming to that'... Or maybe it's just the value they put on it.. P3

Core Category E: Values and Decision Making

This core category explores the internalised considerations of EEI practitioners in their decision making process. This begins to bring together values practitioners identified or suggested as underpinning their work with the reality of the EEI decision making process.

Category 15: Thresholds and tiers of service

Some participants identified a notion of an 'acceptable level' of behaviour which the group could discuss. This corresponded with a similar view of a tiered process of intervention which influenced decision making rather than the circumstances of the young person or their offence. This led on to the view that as young people receive EEI referrals and climb the tiers of service their contact with the system means they are viewed as being 'not suitable for EEI'.

Relevant Quotes

They tend to be crimes or charges that the workers around the table can deal with at that level rather than further up. P7

Its early intervention so it's about crimes we can do in and give education about and try and inform the young people on making positive choices. P7

I was thinking about how I potentially describe tiers of service and it's about people's thresholds...When we look back at previous referrals, [third sector agency] or addiction services its almost seen as the highest level, and rightly

so because we should be looking at universal services... But for me, just because they've had a referral to [agency] before doesn't mean to say they shouldn't get a police warning next time. P1

Sometimes we do get referrals that have 4 EEIs and you think 'this shouldn't be coming to us' P6

Category 16: Eligibility and Criteria

Professionals discussed internalised eligibility criteria they used: to allocate cases to EEI; make decisions; or offer a service. These were around the severity of the offence, the frequency of behaviour, young person's response and engagement, if they have worked with an agency previously and, specific characteristics such as age. Codes included: Criteria based decision making; and flexibility around eligibility.

Relevant Quotes

So the ones that come to EEI we'll know the level of that and if it's too high tariff then it's going to SCRA or the PF...another factor that comes into play, along with the threshold of the offence, is the frequency of it as well. If we are dealing with 5th or 6th offence we'd have to justify why we are dealing with that. You are looking at the young person's response: were they particularly contrite, were they aggressive...So the attitude of the young person to the offence. The nature of the offence as well. P4

We do the check and from an [agency] point of view we would tend to take a referral from EEI if it's a case were already involved in or supporting. P18

We go through the log beforehand and score out anyone outwith the age and geographical area and then it really depends on their offending history and the offence type. P19

For me, I'm very strong about just because they didn't engage this time doesn't exclude them from EEI and I think police struggle with that.

Category 17: Intervention

Comments from across all three localities referred to the importance of supporting a young person and addressing their needs via an intervention. A presumption or accepted norm was to allocate a service or intervention, as to 'do nothing' was viewed negatively. Codes included increased intervention; Intervene early; Formal/informal intervention; Doing something is better than nothing; 'Earlier the better'; Predisposition to intervene.

Relevant Quotes

Obviously, in doing so we're trying to reduce reoffending rates but I think it's about trying to make sure that it's identifying appropriate interventions for that child or young person. P18

I think it highlights early on the needs of the children and young people and gives us an opportunity to intervene early. P1

I think there is more intervention but in an informal way, rather than formal way. P13

Whist more children are getting a service and you could argue that is net-widening, I think its good net-widening as opposed to inappropriate net-widening. P13

I'm asking myself does it require an intensive intervention, a shorter piece of work, or police or a family support worker to go out. P4

Category 18: Pre-emptive decision making

Some respondents suggested a predictability about young people's behaviour, for example, that they would offend again. Decisions were made in anticipation of future behaviour including the intended outcome of that decision or further future decisions in isolation from the circumstances of the young person.

Relevant Quotes

[Evidence of non-engagement] but you know those are the ones that are going to reoffend basically... P8

We know what we're all capable of and what the likely outcome is if we refer on to that agency so there's sometimes not that level of discussion. P13

There's been ones which have come to us... and we've got the feedback in terms of anything in the future that comes along we've exhausted the options and that should go to SCRA.P4

Category 19: Decision to monitor

A distinction was made between young people whose case will be closed to the process and those who will undergo a period of monitoring due to either pre-emption or precaution on the part of the professionals.

Relevant Quotes

There are ones that are, I'll maybe say can we monitor for a month because you are aware of rumblings, if they are on the periphery of things in school then you don't want to take them off EEI just in case you're going to need another wee bit of work, so we'll kind of hold them for a month to see how things go, and if it settles down then we'll take them off then. P8

I mean some of them it's easy, it's plain to see they've engaged in EEI they absolutely get that what they've done wasn't the best thing for them to do, they've taken on the piece of work and you know you're not going to see them again. But they are easy. P8

There might be some cases we keep at [EEI] for a wee while just to make sure that we've got the appropriate agencies in place. If it's a kind of one off offence, wrong time wrong place, then we close it to the EEI process. P5

Core Category F: Decision Making and Young People

This core category considers the extent to which young people are involved in EEI decision making and the potential impact of their exclusion on decision making.

Category 20: Young people: information and representation

Respondents expressed that young people do not receive enough information to understand the EEI process until they are allocated a service. Practitioners acknowledged that young people are not directly represented at EEI. Some respondents noted practitioners who were working with or knew a young person could speak on their behalf. Reasons for not including young people and their families directly were often practical; others did acknowledge a need to be creative and

flexible. No comment interviews were viewed in a particularly negative light. Codes included: Young people don't understand; Young people not represented; No comment interviews; Creativity and engagement; Practicality of engaging young people; Sharing information with young people; Involving young people and families; No comment.

Relevant Quotes

[Young people] don't understand the difference between a charge and a conviction. They don't understand that after a police officer has been out and charged them, why I am coming at the back of that, it's been dealt with. P17

I would say in general they feel very distant from it, they are aware they got a letter and they are aware a thing happened but they don't feel part of the process I would say. P14

Young people's views aren't represented. When we get the report read out from the vpd we'll get their comments, what they've commented back to the charge and the police officer's perception of them. P17

For the kids that are in the process then the worker is the voice of the child and I think they are very good at that...

And I would like to hear about other areas' experiences of how they involve the young people and their families... I mean the practicalities of how quick you get through the agenda would be an issue P1

Often there is a tactful no comment. With the changes now all young people get a solicitor and they advise they no comment but it's frustrating because it doesn't help them and it's wholly down to their legal rep before that, when they were charged at home in front of parents say you would get a better flavour for the young person but you don't get that now. It's a shame because it can escalate things that wouldn't have needed escalated. P17

Category 21: Proximity to the child

While knowing a child directly was seen as an advantage, a number of professionals highlighted the potential for this to create a power imbalance when it came to decision making. Those who had a professional relationship with the young person were considered to have more valuable information and have a greater contribution to the overall decision.

Relevant Quotes

I think the agency that has worked the most with the child will have the most to say at the meeting and be able to guide the meeting, so you would take direction. P11

It's also not equal in the sense that some agencies have more information than others...they might know a young person directly, they might just be coming with attendance and that level of information. Whereas [agency] get to know kids over a number of years, by the very nature of it their contribution to the meetings isn't going to be as equal as someone who can only give you their attendance. P4

Quite often I will take direction from the person that knows the young person best P1

Because to get the value, those decisions being made should be made by the people who know or have knowledge of that young person. P3

Core Category G: EEI and the System

As a formalised process which represents an extension of the youth justice system, this core category addresses the impact of EEI on perceptions, understanding and

practices involving other parts of the system, and similarly how other aspects of the system influence EEI and its effective functioning.

Category 22: SCRA/EEI

The Children's Reporter (sometimes referred to as SCRA/the Reporter) was discussed by respondents frequently in terms of 'nothing being done' (or No Further Action (NFA)) of referrals sent to them. While CHS was characterised as a largely legal, formal and procedural system EEI was considered as empathetic, supportive, and engaging with young people. SCRA was viewed as a more formal response to an increased severity of behaviour, often a more punitive option in a tiered response to behaviour.

Relevant Quotes

It's good to have that lower level and then you go to the reporter because of the severity of it....it's giving them the opportunity not to go up to that kind of level. P6

You've kind of got somewhere to go rather than just taking it all to the reporter. It kind of dilutes it because that's where everybody goes. P6

The reporter had a huge backlog, which meant that any intervention and to be fair they are limited to what they can do, you see a lot of them with no further action or it wasn't timely it was 6 months down the line. P2

[When referrals were going to SCRA] young people were committing offences in the community and getting no support. In my opinion EEI is a support mechanism for young people and their families. P17

I think it gives them an opportunity to stop and think...whereas before they would have been going through a more legal system...instead they can buy into that support informally. P8

Category 23: Thresholds and Decision making

Thresholds were identified as having an impact on the decisions that were made at EEI. A range of factors were identified including age, gender and crime types, specifically sexual offences. Professionals felt these thresholds had implications for processes and outcomes for young people. Codes included Thresholds/values around 16/17 year olds; Thresholds/values/ process around sexual offending; Older young people; Gender; Family/ siblings

Relevant Quotes

I think 16/17 year olds is an area we've still not resolved, we've got a strange system that is very very child friendly until you are 16...then you've had it. P15

We split ours into overs as well [age 16/17] and very few overs come to EEI because they are either custodies and the report has gone to the PF or they have been issued with a recorded police warning, which is quite often the case now. P2

we [EEI] don't get the high tariff stuff now, so like the sexualised offences and things like that. P17

All sexual offences are being jointly reported now regardless of the severity and I think that a lot of these behaviours are very low level behaviours and a lot of them the young person just needs education, particularly if its around the communications act and sexting. A lot of that is age and stage appropriate but kids are being criminalised for it ... Before, we were able to screen these offences...but now that's been completely taken away from us and its not on anyone's radar. P13

Possibly also there's an issue in relation to the young women... if there was alcohol involved then that's a risk not just in terms of their offences but also in

terms of their increased exploitation or harm, which could trigger it into a SCRA situation rather than an EEI because they are deemed, it takes it into a different realm....I would say for women we are still risk averse rather than risk aware.
P4

Category 24: Process issues

Specific external process issues were raised by respondents and described as being frustrating or confusing. Young people's eligibility for EEI based on either the offence they committed or their status within other systems were identified. This category included the following codes: police recorded warnings; frustration over process; processes for young people on CSOs.

Relevant Quotes

I would be interested to know more about the young people who have been assessed as not being EEI eligible... The changes in the law in terms of what's eligible for EEI and what's not can be a bit of a frustration. P1

At one point there was some ambiguity with police about when things could be referred and couldn't and what the position was if a child was referred to SCRA, there was a view they couldn't have another outcome like being referred to [third sector agency]. And we were being absolutely clear there is no stop to any intervention P15

I don't necessarily agree with the Lord Advocates Guidelines for WS, I think they are unrealistic and I don't see the purpose of having the WSA when all we can discuss at EEI are offences not generally committed by young people in our area. I don't think it's in the young person's best interest and an area that needs to be looked at. P17

And the drug offence ones are the ones which are a bit more concerning because those are the ones you think, they are getting a recorded police warning they are not getting an intervention. P2

Category 25: External Influences

External Influences were also identified as being applied to decisions through perceived or actual scrutiny, from both the public and management. Participants identified ways in which the working environment impacted on EEI practice. It was identified as: a factor in power dynamics between agencies; in creating conditions for multiagency working; and portraying a symbolically appropriate environment. This category included the codes External pressures and environment.

Relevant Quotes

Then you have the ones that hit the news...so that kind of put the group under a bit of pressure because all of a sudden you've got the public applying a bit of pressure. P12

There are things from a police view, we have to be seen to be putting it to the reporter but SW will say they are engaging well so why do that. P11

I'm very conscious that we are using a room within criminal justice and that environment, how appropriate is that? I think it's very different in [agency], our premises is very different, very welcoming. I think the environment is really important. P1

We are very fortunate that we still have co-located health and social work staff in our schools that does make a huge difference because they are able to respond very quickly to the needs of the kids. They also know the children, they know the families. P8

Category 26: Utilise intelligence

EI was viewed as not fully utilising the potential intelligence and expertise which is created as a product of EI or highlighted as a result of EI practice. This category was produced from the following codes: trends; review full outcomes; looking past decision making; dealing with the immediate; developing early intervention; taking time for the group.

Relevant Quotes

I firmly believe that the EI process shouldn't just be about the young people that come before us, that if we can identify trends or issues or be more proactive and feed into a bigger picture and be able to identify a pattern or an issue. P4

However we're only discussing these young people because they've been charged by the police so I think there are maybe areas in [Location C] where we could be developing earlier intervention before they are getting charged. P17

When you are just dealing with the log week to week you do get a wee sense of there may be a wee cluster of incidents happening but I think it would be helpful to get that sort of analysis and I suppose that could help us to see if there are any particular trends and have we been identifying appropriate interventions. P18

Core Category H: Agency Commitment to EI

Participants suggested a range of both internal and external influences which impacted on the effective operation of EI practice. This core category provides

practical issues and potential solutions which form the basis of micro level recommendations of the study.

Category 27: Lack of commitment in EEI

This category was specific to Location A. All participants from this locality were concerned by a perceived lack of commitment and investment in EEI on the part of Social Work and Education. Potential explanations for this included staff turnover, staff workloads or staff priorities, as well as changes in process, including dedicated EEI roles.

Relevant Quotes

I just don't feel there's real investment from social work managers in [EEI]...I don't know if it's the relatively high turnover in staff...In intake teams about sending representatives along it's about time...And to be fair to social workers some of them do try and come along and it's just the challenges of their priorities... P1

I don't know how these things sit in Social Work, you know where the pressure is coming from, but I know everyone should be signed up to it and committed but it certainly seems to fall down a wee bit on that side of things. P2

I think initially when the EEI process started initially...there was a dedicated WSA/EEI...there was a central point and focus for EEI and development of WSA. That left and it's been almost a bit piecemeal in respects...There's a dwindling commitment from some of the partner agencies. Now all they get is the agenda, so part of the change in process may well have resulted in a diminish in their commitment to attending but it may well be due to lack of personnel or it may be that the schools, high schools particularly, don't have a designated EEI worker. P3

Category 28: Leadership

For participants, particularly of Location C, a lack of leadership impacted on strategic decision making about the functioning of the group and impacted on agencies' understanding and engagement with EEI.

Relevant Quotes

They were saying who would be the go to person who oversees youth justice in [Location C] and no one knew or they didn't exist...p19

It's not obvious who is in charge of the group; it's not obvious who makes decisions about attendance. Which is a strength and a weakness because it means there's no real hierarchy, but when it comes to important decision making that becomes difficult. P14

Category 29: Need or role to promote EEI

Respondents from Location C acknowledged a potential role for those involved in EEI in educating agencies about EEI processes and promoting EEI by engaging others in the underlying approach. It was not clear which agency, individual or role within EEI would be responsible for this.

Relevant Quotes

We [EEI members] have a responsibility, or I do [Chair] or certainly [agency] do, in engaging more people in these conversations and talking more about Whole Systems Approach and EEI, include it in reports and back it up with research... P1

I do think we need to do a bit more work on awareness in relation to EEI, it's not something that's taught at the college for [police] probationers coming in and they don't really know what it's about and what happens at the meeting, so yeah a bit more awareness in relation to that. P2

And the point we were really trying to drive home to [children's panel members] was not just about the process but really make them aware that if they have a young person in front of them on offence grounds that there has potentially been a quite a bit of work done before they are there and really just heighten their awareness P1

Category 30: Core or additional business

One respondent noted that with the exception of the Police EEI is additional to the work of other agencies workload, and that despite this it is viewed as core work.

Relevant Quotes

It is hard because apart from the police there is no one else in the system whose work is dedicated to EEI. For the rest of us this is additional, we see it as core business, but it's in addition to our day to day statutory duties.

P14

Category 31: Resources

Two respondents provided an insight into what is expected of agencies who attend EEI. They noted that agencies must be able to provide resources, for example, take referrals and provide interventions, and be flexible as to which referrals can be accepted. EEI chairs in two localities perceived a limitation in the services they were able to provide due to a lack of resources or their application not being flexible or creative.

Relevant Quotes

There's no point people coming to the group if they are not willing to put things forward as a resource. By the same token if they are sitting there

saying, 'we can't do that that's not in our remit' you think why are you here.

So flexibility and willingness to. P4

I don't know if there's the breadth of resources that I would like to have...I

still think for some young people its round pegs in square holes. P4

I would love to have more agencies there that could bring more resources to the table, who wouldn't be working directly with the offending aspect of it but around those other things we've been talking about...strength based approaches. P4

I sometimes feel we are fairly limited in our resources, now we might not be...but I do sometimes feel at times we have to fit them in somewhere...what I would welcome would be more creativity and flexibility around the packages we deliver our young people

P1

Category 32: Service Gap

Respondents from all locations were able to identify a range of agencies which were not directly or indirectly involved in EEI. Often, they referred to this negatively. Universal services, such as Health and Housing were frequently acknowledged as non-attenders. More localised services such as substance misuse service and local activity groups were also noted. Reasons for the lack of representation related to capacity within agencies. Codes included: Health gap; Substance misuse, youth services, housing, SDS GAP; Agency buy in; Information gap; Identifying the 'right person'.

Relevant Quotes

One of my biggest bug bears...is [Child Mental Health Service]. They could bring an awful lot to the table but they don't and I think that's a big missing link...I think as well as being stretched its about getting the right person round the table. P13

Substance misuse is a biggy and I think it would be good if we could have a worker from there; cannabis use seems to be really rife in the local area. P6

Skills Development Scotland they are absolutely critical in supporting the kids into the more positive destinations. P8

[Attendance] housing for the information they can bring in terms of antisocial behaviour within the home; tenancy and eviction notifications; and rent arrears which can suggest family financial problems. P7

Youth groups who are already working in the areas to try and engage...I sometimes feel like if they were invited along that would help when discussing kids from areas where they offer services. P5

It is clear from both the quotes and related statements that the categories which have emerged from the data are connected. Following a process of analysis which required the interrogation of categories, their properties, and extensive memo-ing, the categories were integrated to form 8 core categories based on an ability to describe a specific theme (table 5.1). In section 5.4 of this chapter, the eight core categories are applied to the observational data and descriptive statistics. As the core categories have emerged from the data it is reasonable that not all forms of data will be applicable to all core categories.

5.4 Observations and Descriptive Statistics

During the data collection period in each location, the practice of EEI was observed by the researcher (see section 4.5.3.3 in methodology for more details and Appendix B for observation schedule). The observations of EEI referrals made to each area allowed for data to be collected which could then be transformed into descriptive statistics. The data collected during the observations included: characteristic of the young person; the information discussed in relation to the referral; and the decisions of the EEI group. While the limitations of this method are outlined in chapter 4, observations and subsequent arrangement of descriptive statistics provide an opportunity to triangulate the categories developed from the interviews. Exploratory analysis of cases referred to EEI has not been carried out across localities in Scotland previously and therefore this research will make an original contribution to this area of practice and research. The full analyses of all frequencies from the descriptive statistics are included in Appendix G.

Core Category A: Policy Values

All observations in all localities captured the breadth of holistic decision making, with multiagency discussion providing information about the child such as: their personality and extent of remorsefulness; their family circumstances including household circumstances including concerns such as domestic abuse, bereavements and drug and alcohol dependency; and their educational attainment, attendance and behaviour.

An observation in Location A provided an example of considering the child and their 'whole life'. There was an extensive discussion about a young person whom it was understood was becoming 'increasingly disengaged with school' and 'unresponsive to authority', in which a practitioner asked:

“Does [child] have any positive interests or hobbies or skills that we could tap into. It seems as if we are at a loss of how to support and help him. It could be a way of re-engaging him”

Often, concerns were raised both in relation to offending behaviour (for example, lack of remorse, poor peer associations) and regarding the young person's welfare (for example, lacking parental control or experiencing parental neglect). On occasions the purpose of EEI would be restated as 'dealing with the offence' in which case a decision would be made to address the offence at EEI (for example with a Police Warning) and wider welfare concerns would be monitored or acted upon by agencies out with the EEI process. Where the circumstances of the young person were known and of concern, these were observed to take precedence over the nature and circumstances of the offence.

One of the categories identified within EEI practice was holistic decision making, where professionals consider all aspects of a young person's life in relation to their behaviour. The observations recorded both the range and volume of discussion by professionals with regard to a young person's circumstances and the issues they face (table 5.5).

Table 5.5 Wellbeing concerns³⁹

Vulnerability category	Number	Valid Percent
None discussed	99	70.9
Multiple vulnerabilities	11	7.9
Care Experienced	9	6.4
Additional Support Needs	8	5.7
Mental Health	4	2.9
Domestic Abuse	3	2.1
Young Carer	2	1.4
Education Concerns	2	1.4
Victim of Crime	1	0.7
Bereaved	1	0.7

For 29.1% of cases, wellbeing concerns were discussed which included: mental health concerns, additional support needs, being care experienced or a carer themselves, or having faced bereavement. 7.9% of young people discussed had multiple needs. Excluding both sets of cases where no vulnerability was discussed and where multiple issues were discussed, the highest single vulnerability identified was having experience of Local Authority care (6.4%). In chapter 6 the influence of wellbeing concerns in relation to decision making will be discussed. Potential wellbeing concerns in young people’s lives were not discussed in the majority of cases (70.9%,

³⁹ Categories included but were not exclusive to - Care experienced: looked after at home, or in local authority care; Additional Support Needs: registered disability, learning disability; Mental Health: self-harm, referral to mental health services; Domestic Abuse: witness to police domestic incident; Young Carer: caring responsibilities; Education concerns: attendance, behaviour, exclusions, attainment; Victim of crime: alleged victim of a criminal offence; Bereaved: recently bereaved.

n=99). This high proportion may be for reasons such as the young person not being known to services or simply the young person not having any other concerns.

Core Category B: Alternative Values

While it is difficult to observe and record examples of individuals' values in terms of their influence on decision making due to the internalised and implicit nature of decision making, on occasions values were expressed explicitly. In rare instances the views of or impact on victims were, to some extent, considered in decision making. For example, in one case a victim's parents' views were expressed via the Police report and provided to the EEI group. The chair noted that while the victim was a consideration, the "*perpetrator is paramount*" in decision making at EEI. Underpinning values were discussed at greater length in interview responses.

Core Category C: Professional Perspectives

The researcher noted very little conflict between agency representatives in terms of the decision to be made. There were a number of occasions where differing professional perspectives were evident. For example in an observation which took place in Location A, discussion arose in relation to the severity of an offence, a threat of violence, which occurred online. Different thresholds were evident as to the severity of the incident and the risk posed by the young person. The Police representatives viewed the case as low risk as the threat was not made in person and there was no evidence to suggest such an incident had been planned nor had taken place previously. Social Work and Education representatives based their thresholds on the underlying intent of the threat, which was sexual and violent and therefore deemed high risk. Based on the varying risk thresholds the proposed responses to the incident were different: Police representatives were satisfied to give a formal warning; however Education and Social Work colleagues thought a more structured intervention was required. Despite the Police Officer in question having trained in internet safety and citing a degree of specialist knowledge and experience of dealing with such incidents, the final decision was made in respect of the views of Social Work and Education. Other such observations to a varying degree were made in the other locations.

The descriptive statistics collected as part of this study cannot be applied to the core category *professional perspectives* as data collected in this way focused on aspects of the cases referred rather than the professionals.

Core Category D: Decision Making in Partnership

Positive working relationships between partners were visible across all locations: characterised by 'banter' and informal chat; discussion about crossover areas of work; asking for help, support or information; and practically sharing transport and meeting rooms.

This core category focuses on the relationships between partner agencies, potential perceived power imbalances, and how these influence the decisions that are made during EEI meetings. The statistics collected can only provide details on what has and has not been discussed and how that may have impacted on the decision outcomes. They cannot provide any supporting or contradictory data on this category.

Core Category E: Values and Decision Making

Tables 5.6 and 5.7 display the frequency of decisions made during data collection in relation to the 140 cases discussed across the three locations.

Almost half of the total number of decisions made was to refer to an agency for an intervention (50.7). And the referral agency with the highest referrals was Social Work (33.8), followed by a Youth Work Programme which was run by the Local Authority in Location A (29.6). Education, as the other universal service, received a significantly lower number of referrals (4.2%).

Table 5.6: Referral decisions across Locations

Decision	Number	Valid percent
Refer to Agency	71	50.7
Police Warning	29	20.7
Referral to SCRA/ PF	19	13.6
Carry forward	14	10.0
No Further Action	6	4.3
Police Restorative Warning	1	0.7

Table 5.7: Referral to agency

Decision Agency	Number	Valid Percent
Social Work	24	33.8
Youth Work Programme (A)	21	29.6
Third Sector Organisation	20	28.2
Education	3	4.2
Substance Misuse Service	3	4.2

Additionally, there was an observable concern, both implicitly and explicitly, that lower level interventions or doing nothing would not be adequate in addressing offending behaviour. In one location a participant was noted as stating, *“the point is to stop a further offence...is a talking to from the police (police warning) really enough?”*

Interesting observations were made regarding co-accused young people in terms of the values underpinning decision making. If decisions are made based on the offence, then co-accused young people would receive the same outcome. Alternatively, if based on circumstances then they may end up having different outcomes. As an example, in the case below this issue is combined with process. A 13-year-old was co-accused with a 16-year-old. The younger person is discussed at EEI while the older young person had been given a Police Recorded Warning and therefore was not able to be discussed at EEI. As the incident was being discussed, professionals commented on their frustrations that the older of the young people was not referred to EEI and subject to discussion as they had more concerns regarding the 16-year-old, than the 13-year-old.

Core Category G: Decision Making and Young People

140 young people were referred to EEI across the localities within 4 weeks. This gives some indication as to the scale of EEI within the context of wider youth offending and referrals. The descriptive statistics also provide valuable insights into the characteristics of the young people referred including: gender and age, their wider circumstances and the circumstances surrounding their offending behaviour.

Core Category H: EEI and the System

Observations provided insight into how EEI works alongside other existing parts of the system. Contact with formal systems such as SCRA operated differently across locations. In Location A all cases were discussed, regardless of whether young people are subject to a Compulsory Supervision Order (CSO) or if the offence should be referred to either SCRA or the Procurator Fiscal due to its severity. The recommendation of the group, based on their multiagency information and expertise, was provided along with the referral. In Location B and C this was not the case. In these authorities there were instances where young people would be referred to EEI after having their CSO recently terminated. Discussion revealed many had multiple Vulnerable Persons Database (VPD) referrals and previous offences, not previously eligible for EEI due to their involvement in other parts of the system.

EEl is not the only decision making forum where professionals discuss young people who raise concerns. Localised wellbeing meetings were often known to be taking place for young people discussed at EEl. Where this information was known, the young person's involvement in another system could be seen to influence the decision made at EEl, the EEl would either await the outcome of the wellbeing meeting or vice versa. Wellbeing meetings were often chaired or convened by Education and therefore the information was more readily available in Locations A and B due to increased Education attendance.

This core category highlights the potential intelligence which is created during the EEl process. In collecting descriptive statistics on the cases discussed at EEl, this research has taken a first step to systematically recording such information. The limitations and potential uses for such information have been discussed in chapter 4.

Having the opportunity to observe the meeting provided a space to consider some wider implications and recommendations regarding EEl practice. It became apparent that while dealing with the weekly log there is a wealth of intelligence and practice knowledge that goes unrecorded due to external demands. As an example, across the three localities, an observation made by the researcher was that a high number of young people were charged for theft of a specific item, namely electronic cigarettes and their accessories. There were local areas, including parks and bus stations, where antisocial behaviour was a specific issue and high volumes of young people were being charged. While these trends were often acknowledged, there appeared to be a lack of capacity to act or wider discussion about primary prevention to stop young people being charged.

Core Category I: Agency Commitment

Observations made clear the impact of attendance on the quality of discussions and decisions made. On a practical level it was seen to affect the quality of the discussion due to gaps in information available to the group. It also limits the range of professional perspectives and potential decisions available to the group.

There were varying observations in regards to the impact of attendance on decision making. It was clear that having worked previously with a young person could lead to further referrals to the same agency, suggesting that attendance and disposals are linked. In locations where there was a sign post role or equivalent, referrals were more likely to be made outside the group attendance.

5.5 Conclusions

Chapter 4 outlined the methodological complexities of the current study, most notably the combined methodology of modified grounded theory and case study approach. Although a non-linear process involving constant comparison of codes, categories, data and memos, the chapter aims to guide the reader in the process and application of modified grounded theory in relation to this study. The methodology was integral in allowing the findings to emerge and be shaped by the data, ensuring the analysis and discussion is representative of both practice in and across the case study locations and defensible as a robust and applicable reflection of EEI practice in youth justice in Scotland.

The findings chapter is purposefully organised to: further highlight the grounded nature of the findings; structured to reflect the development of core categories from the data and codes, as far as is possible; and presented with as little researcher or theoretical analysis as possible. Presenting the findings in this way allows the reader to follow the emergence of the theory from the findings, separately from the theoretical and conceptual development.

Following the constant comparison of codes, their properties and categories and triangulation of findings across the data sources a total of 32 categories emerged and were synthesised in 8 core categories which covered themes including practice, principles, process, and systems. Through in-depth analysis of these categories overall findings both grounded in data and significant to a wider theoretical framework have emerged. Informed by Cohen's (1985) theory of social control and informed by the research questions, the core categories combine to address three central issues which form the contribution of this research:

- How is EEI understood and practised in Scotland?
- What issues and concerns does this practice raise?
- And what is to be done?

By developing the findings, analysis and discussion in relation to these three issues, chapters 6, 7 and 8 address the overall aim of this research: how and why collective decisions are made in the Scottish youth justice context of EEI.

6 BENEVOLENT AIMS: HOW IS EEI UNDERSTOOD AND PRACTISED IN SCOTLAND?

This chapter addresses how Early and Effective Intervention (EEI) operates in practice, including the discourses and policy that influence practitioners working in EEI. The emergent findings under this theme conclude that, consistent with the earlier literature, EEI practitioners are influenced by a range of principles. There was found to be a high degree of policy resonance which serves to support practitioners to work together in pursuit of shared aims. As identified in chapter 3, the policy is limited in terms of practice prescription and findings conclude that as a result practice varies across case study areas. Partnership working is a unifying aspect of EEI and is a central theme in relation to the findings of the research. The high degree of policy resonance has created a strong consensus of the overwhelmingly benevolent aims and opportunities of EEI, and while outcomes cannot be identified, benefits of good practice can be assumed. At a micro level, the actions and intentions of practitioners involved in EEI appear benevolent - although influenced by a myriad of welfarist, pragmatist, and punitive principles. The research found that practitioners are guided by principles such as those promoted in the Whole System Approach (WSA), that is, to deal with wellbeing concern in the lives of young people and to aim to work collaboratively in pursuit of a shared goal. Less centralised judgements include welfare judgements that offending is symptomatic of wider need and that victims and reparation should be included in the approach in the pursuit of justice.

6.1 Introduction

Chapter 5 outlines the findings of the research and their development using modified grounded theory methods. The chapter presents the emergent findings as neutrally as possible to highlight how the core categories and discussion which follows developed from the data. The findings present 8 core categories which can be applied to the discussion presented in chapters 6, 7 and 8 and address: firstly, how EEI is understood and practised in Scotland by those involved (current chapter); secondly, the implications of this practice for various groups, including practitioners and young

people involved in EEI (chapter 7); and lastly, to consider what can be done to improve practice both at the level of EEI and the wider Scottish Youth justice system (chapter 8).

Chapter 3 considers the governing principles evident in Scottish youth justice and their relevance to the practice of EEI. This chapter concludes that EEI practitioners are influenced by competing ideals: simultaneously loyal to existing welfare principles, considerate of justice concerns, while increasingly actuarial in their approach. The policy in relation to EEI can be seen to be supported by an increasingly risk management orientated approach. This chapter discusses the research findings in relation to the practice of EEI as understood by practitioners themselves. It addresses both their understanding of the conceptual influences in relation to their practice as well as the practice itself. The discussion will show that there is a mixed range of principles underpinning EEI practice which is reflected in the inherent tensions existent in the informal policies supporting EEI. Together the policies and principles are used to unify professionals from varied backgrounds to work together towards an integrated and evidence based approach to dealing with young people involved in offending behaviour which they understand to be evidence informed and benevolent.

6.2 How is EEI understood?

This section of the chapter will discuss EEI practitioners' understanding of the factors and rationales that inform their decision making as being shaped both directly by policy and indirectly by the range of underpinning conceptual principles. Helm (2010) notes that decision making is influenced by a range of factors including: the circumstances of the situation about which the decision is to be made; guidance, such as policy and process bureaucracy; and a range of macro and internal issues. This chapter presents influences that emerged from the findings of the research and therefore does not take into account all influences on decision making.

6.2.1 Policy

A high degree of policy resonance was evident in the findings. A shared language and ethos was evident in all locations and among and between participants. This shared language, often based on policies such as Getting It Right for Every Child (GIRFEC), WSA and EEI, was identified as providing a justification for practice when questioned in interviews by the researcher; in addition to when carrying out EEI decision making and justifying decision making between each other. Chapter 3 outlined EEI government policy such as: The Whole System Approach to Young People involved in Offending, a foremost document for youth justice policy and practice in Scotland; Preventing offending for young people, the Scottish Government strategy document for working with young people who offend; and within policies such as GIRFEC. The ethos and values of EEI were found to both directly and indirectly guide and promote working practices of practitioners, suggesting a high level of policy resonance. Participants were noted both during interviews and observations as identifying and making direct reference to legislation and policy as guiding their practice.

"It's really enshrined in GIRFEC and WSA values underpin it". P3

In Location A, an observation note was made where the group supported their decision by using wellbeing indicators which made them aware of 'potential vulnerabilities' in the life of a young person and described the value of the EEI processes as 'getting in there early'.

There was a clear understanding of the research and evidence which underpins the approach, namely the seminal Scottish study by McAra & McVie (2010) which found that contact with formal systems such as the CHS perpetuated offending behaviour and provided a rationale for an alternative system such as that of the WSA and EEI.

I: what are the advantages of having the EEI system in place?

R: "I think the reduction of inappropriate referrals to the reporter, the kind of speedy response and matching interventions appropriately to suit the young person's needs". P18

In this quote it is noted that participants often self-defined their approach to EEI work as *'timely, appropriate and proportionate'*, which are the key principles of EEI under the WSA, which as noted in chapter 3, are based on theories of prevention, early intervention, and diversion. However, these are by no means clearly defined separate concepts:

"The remit for me is about trying to get timely and appropriate responses to youth offending...trying to get the right resources at the right time and looking at their offending in context of their age and stage of development". P13

The language, understanding and values of WSA, EEI and GIRFEC policy are embedded in practice and central to explaining and justifying the EEI practice and approach of practitioners. This finding is consistent with earlier evaluations of the wider WSA, which found that there is a strong commitment to the principles, goals and values of WSA from practitioners (MacQueen & McVie, 2013; Murray et al, 2015). As noted in chapter 3 these supporting documents state to be evidence based and promote a child-centred, holistic, multiagency approach to working with young people who offend at all levels of the system, while representing a mix of welfare, restorative, and actuarial principles. Section 6.2.2 of this chapter will show how practice is influenced by the mixed range of principles underpinning the above policies including: holistic decision making and partnership working; restorative and retribution; and traditional welfarism.

6.2.2 Principles

This section addresses the range of rationales which practitioners identified as influencing their EEI practice and decision making.

6.2.2.1 Wellbeing and Welfare

EEI builds on policies such as WSA and GIRFEC which are underpinned by the welfare ethos of the Kilbrandon Report (1964) which is the foundation of the Scottish youth justice field, permeating policy and practice thereafter. Conceptual shifts and policy priorities to early intervention move the emphasis from welfare, subsequently requiring a higher level of degree of concern to wellbeing. Considering wellbeing

needs of young people, under GIRFEC's 8 SHANARRI wellbeing indicators⁴⁰, requires more and different agencies to consider the needs of children in a holistic manner and therefore requires a high degree of partnership working and information sharing.

Paramount to promoting the wellbeing of young people involved in offending is making holistic decisions. This would involve offering support based on individual and family needs and wellbeing concerns, both directly and indirectly related to offending behaviour, in the acknowledgement of the impact of need on behaviour.

All three data collection methods found evidence of the prevalence and extent of holism in EEI. Interviews revealed an explicit requirement was for practitioners to *'take a holistic view and look beyond the offence'* (P18) as practitioners extend the welfare principle of 'needs' and 'deeds' to identify all pressures on and potential avenues to support desistance from offending behaviour. Looking at all aspects of a young person's life was a tool to enable practitioners to see past the presenting behaviour and view the 'whole child', keeping the child and their needs at the centre of decision making: *"what's really important is keeping the young person at the centre"*(P1).

Observations found information being shared on a range of issues related to a young person's overall wellbeing and observation allowed for these vulnerabilities to be quantified and recorded and presented as descriptive statistics across 9 wellbeing categories⁴¹. Wellbeing vulnerabilities were discussed in 29.3% of the cases referred, with 70.7% of the young people discussed by professionals not identified or recoded as experiencing issues which would suggest wellbeing concern. This would suggest that, for the majority of young people discussed, there was no available information to suggest a wellbeing concern, while the context of the young person's life cannot

⁴⁰ GIRFEC SHANNARI Indicators include: Safe, Healthy, Active, Nurtured, Achieving, Respected, Responsible and Included

⁴¹ Wellbeing categories included: Mental Health Concerns; Additional Support Needs; Care Experienced; Young Carer; Bereaved; Domestic Abuse; victim of crime; School concerns; Multiple vulnerabilities.

be fully understood. Of the 29.3% cases where vulnerabilities were discussed, 7.9% of cases were identified as having multiple concerns. Initial consideration of this percentage may at first seem surprisingly low, however, it is important to take into consideration the very low level offending with which EEI deals. The majority of young people will at some point become involved in offending behaviour as a natural part of their social and emotional development: The Edinburgh Study identified that self-reported offending was at 95% for their cohort of young people (McAra & McVie, 2007). Further iterations of their study differentiated groups of young people involved in early onset offending by their sustained trajectory of offending behaviour to include: early onset chronic offenders; early onset desisters; and later onset decliners (McAra & McVie, 2010). EEI captures young people who are characterised by their early onset of offending behaviour irrespective of context and wellbeing concern.

Taking a holistic view of young people's behaviour in the context of their wider lives is seen as an integral mechanism in promoting effective, proportionate and timely decisions to wellbeing concerns as they arise rather than waiting to implement a crisis response. As per GIRFEC, WSA and EEI guidance, this must be balanced with the understanding that for most young people offending is a developmental norm.

In addition to wellbeing, offending was identified as relational to need in more symptomatic terms, reminiscent of more welfarist sentiments. Welfarism is enshrined in Scottish youth justice policy through mantras such as '*needs and deeds*', championed by the Kilbrandon ethos. Through interviews and observation, it became evident that some practitioners viewed offending behaviour as symptomatic of an underlying need in an area of a young person's life, often related to their welfare.

"I think that we are very focused on needs rather than deeds...and that's because ...the understanding that offending is symptomatic of something else rather than behaviour in itself." P14

“Offending is a symptom. If kids are offending they are basically telling you something in relation to their behaviour. It’s about the child the whole kid and it’s about looking at the holistic world of that child”. P3

While for some young people this will be the case, the above evidence from the descriptive statistics show this to be a more complex picture, as *“early identification of at-risk children is not a water tight process and may be iatrogenic”* (McAra & McVie, 2010, 189). While welfare sentiments are important and required for the appropriate treatment of young people, the potential negative consequences of youth justice decision making based on welfare are well documented and discussed in chapters 2 and 3 (Goddard and Myers, 2017; Goldson, 2008, 2013; McCarthy, 2011 Phoenix, 2009). The further explorations of these potential implications are discussed at greater length in chapter 8.

6.2.2.2 Restorative Justice and Responsibility

While victims and responsibility feature less frequently in later iterations of EEI policy and become arguably less central to the main vision, they were still represented in the myriad of rationales underpinning the decisions of practitioners at EEI. As ‘alternative principles’ to those specifically outlined and promoted in policy they were still, although to a lesser extent, put forward as considerations in EEI practice. It should also be noted that the data in regarding ‘alternative values’ were intertwined with the agency the respondent represented.

Respondents from, although not exclusively, Police and community safety considered their agency’s role and duty to support victims as influencing their decision making principles:

“The police see the victim, then of course we are the ones with the crime file and know the victim’s statement, the other partners don’t know that side of it”. P11

“Because I work in [community safety] I’m very aware there is a victim of that offence as well and what service we are giving that victim so in that sense

yeah I would argue for cases to go to [agency] just for victim participation”

P17

Some respondents expressed an awareness of the impact of crime on victims and valued the role of restorative justice in supporting victims and offenders and that this influenced their decision making. Consideration of victim impact was discussed more frequently in Location A than in the other two locations. Potential reasons for the emphasis of restorative practice in this location could be regarding the well-established multiagency practice of EEI which has allowed practice to mature to an extent where members are able to challenge and consider extending principles to include other issues they think relevant. Alternatively, the influence of Police, antisocial behaviour, and specialist restorative practitioner’s representation could permeate the wider group discussion and consideration of issues of relevance in decision making.

“There isn’t a particular focus on victims and maybe that isn’t part of the remit of the group as it stands just now but it’s a very important part of the whole kind of process of an offence... and it might be that we need to think about that.” P14

Observations found very little information was shared on the victim or the impact of the crime in practice. However, during one observation in Location C the statement from the parent of a victim was heard during the EEI. It was stated that while the group should be aware of the impact of the offence, the remit of EEI was to deal with the young person responsible for the offence and ensure they received an appropriate intervention. In this instance the practitioner did not find it appropriate to consider the role of the victim in decision making as a principle, nor as a potential way to deal with the offence referred to EEI.

A low number of restorative justice warnings (0.7%) were issued within the three locations during the period of data collection. The true extent of restorative interventions may be concealed within the high number of agency referrals (50.7%), some of which will provide restorative justice services to young people as the

outcome of the EEI decision. For example, 10.0% of referrals in Location A were made to a Third Sector agency that provides restorative interventions. Service provision does, however, vary across locations and will impact on potential intervention options.

The researcher considers the potential that a consequence of failing to include restorative values, language, and understanding in EEI policy and principles may result in both a reluctance to engage with restorative interventions and agencies, as well as directly via restorative justice warnings. Similarly, by only focusing on the young person as the perpetrator, we potentially fail to acknowledge them as a victim also.

The analysis of these findings highlights the potential that practice may be limited considering only that which is outlined in policy, possibly excluding alternative discourses from the guiding principles which inform EEI practice. This may particularly be the case in terms of considering victims and restorative practices as the pre-existing principle priority of the welfare and wellbeing of the offender is what unites disparate agencies in a common goal. The key issue here is that a system with the primary purpose to process young people who are found to have offended will almost inevitably struggle to find appropriate ways of involving other interests, especially those of victims (Smith, 2014). The potential concern is that an undue emphasis on the victim could change the purpose and nature of the youth justice process (Haines & Drakeford, 1998).

Similar responsabilisation⁴² rhetoric was also evident in the responses of some practitioners.

“I think it’s good that we identify and acknowledge the charges...there are consequences and this is part of what you have to go through to prove that

⁴² A process of emphasising the responsibility of citizens in line with neo-liberal ideological imperatives - See Young (2003).

you're not going to be picking up more charges. So I think that's good cos you are making them accountable for the charge that they have". P6

"And I think that that's a vital part of the process that these kids do realise and do take responsibility for their actions". P5

Barry (2013) has also noted the responsabilising response of the Whole System Approach to individual management of risk and behaviour of young people involved in offending in Scotland, rather than a system response to wider socio-economic constraints. Gray (2007) evidenced an emerging theme of responsabilisation in the New Labour approach to youth justice which held young people accountable for individual cognitive deficits that were identified as risks relating to their offending behaviour. She further presents the potential inability for the system to both tackle personal responsibility while acknowledging the socio-economic and structural issues related to youth offending. Ultimately, the reponsibilisation principles work in contradiction to the previous judgement regarding children's behaviour being linked to structural welfare issues such as poverty and neglect, in the way that their behaviour is symptomatic of need. For many who support the restorative agenda in terms of offender focused restorative work⁴³, rights, and child led approaches can successfully combine the two by acknowledging young people involved in offending as children in the first instance (Haines & Drakeford, 1998; Haines & O'Mahony, 2006; Gray, 2007). Restorative Justice, while having a place in youth justice can often create a binary divide between offender or victim, rather than seeing the child (Haines and Case, 2015). This fails to take into account the potential for young people to be both a victim and perpetrator of a crime. However, acknowledging harm caused can be helpful in the process of desistance.

⁴³ Restorative interventions can be offender focused, on taking accountability for actions and acknowledging harm caused; and victim focused- in the more traditional sense of repairing harm to the victim.

6.2.2.3 *Partnership working*

While partnership working may initially be considered as simply a mechanism in which to achieve the stated aims, this research argues it is not only a means to an end but an end in itself. As a principle it is seen as an inherent good and featured strongly in the rationale and factors which shaped decision making. Partnership working as an essential principle of EEI can be clearly noted when discussing practice (section 6.4).

Partnership working as a mechanism takes the common-sense approach to working with people, who by their very nature live complex lives, stemming from the mounting importance and understanding of the aetiology of social problems. In particular the causes of crime complement the welfare approach to offending by young people. The aetiology of crime provides a theoretical rationale for partnership efforts in prevention and intervention. In recognising the range of factors related to offending, there is acknowledgment of the need to involve a range of specialisms, which address the multiple facets of criminality.

GIRFEC and WSA requires close partnership working to pragmatically address the holistic range of wellbeing needs of children involved in offending.

“Practitioners need to work together to support families... This means working across organisational boundaries...”(Scottish Government, 2012, 3)

While professional perspectives were acknowledged to exist, and to some extent be unavoidable, partnership working was additionally viewed as a principle. Identifying and working in pursuit of a shared goal under EEI was clearly expressed as a central principle by the research participants:

“We all have the same end goal. We all want what’s best for the young person and they are very much at the centre of the decision making process. We might have different views about how to get that end result but ultimately the group’s job is to stop young people reoffending by engaging with them and carrying out meaningful and proportionate work”. P17

The understanding that people live complex lives, where interacting and multiple factors influence their behaviour, encourages agencies to address the factors affecting the whole person, known as a '*holistic approach*'. In further recognition of the holistic nature of agency responses, partnership working should correspond with the emergence of user focused services, where decisions and interventions are based on individual 'needs and deeds' (Rushmer & Pallis, 2003; Irvine et al, 2002) and in reference to the current topic the emergence of a '*child-centred approach*'.

In considering the factors and rationales that practitioners attribute to their practice a range of principles underpin EEI decision making. Policy, while also being considerate of a range of perspectives, features heavily in the rationale and may have the potential to exclude alternative perspectives out with the norm.

6.3 How is EEI practised?

This section offers analysis and discussion of the findings in relation to the practice of EEI as it was experienced by practitioners and observed by the researcher. Research into the practice of EEI is limited (Papadodimitraki, 2016) and therefore this research offers a timely insight into practitioners' experience of working in this multiagency diversionary context.

As noted above, practitioners expressed that their practice was heavily informed by related EEI policy which has also been shown both through this and other research, to include a myriad of aims. The policy frameworks have also been shown to be intentionally flexible and non-prescriptive to allow for local practice variations within the overarching aim of addressing children's offending as a matter of wellbeing. This section will show highly variable practice of EEI across the 3 case study locations. Findings of the scoping study, presented in chapter 3, show that nationally there is a high degree in variation between two broad models of EEI including process, remit and agency involvement. Utilising a modified grounded theory methodology in three case study locations, the research was able to develop an in-depth exploration of the variations in EEI practice.

6.3.1 Framing the discussion and decision

In both Location A and C, Police representatives would begin the discussion by reading the crime report, often verbatim, and list any other police concerns from the Police Vulnerable Person Database (VPD). This may to an extent 'frame' the discussion which follows in terms of seeing the young person first and foremost in terms of their offending behaviour, with them as a perpetrator rather than a child. In Location B, the chair would explain the charge and attending officers would occasionally provide additional information on the case. The tone of the two approaches was observed as being markedly different, with the chair presenting the child and their circumstances, rather than the Police account of events. The potential framing of cases could be interpreted as unintentionally increased decision making power for the Police. Additionally, Police attendance in Location B was from Campus Police Officers⁴⁴ rather than centralised Police staff. This may also influence the tone and perspective of the Police information provided.

The decision making process was markedly different across the locations, influenced by a range of internal and external factors, some of which cannot be fully accounted for⁴⁵. Particular to Location A was an observable, although largely unintentional, criteria based decision making process. Children were noted as 'open' or 'known' to each service and any subsequent information was shared. There was less discussion regarding the child and their circumstances and the decision tended to become clear through an emphasis on criteria based decisions. Being known or not to an agency appeared to create a process of elimination which left remaining decision options available to the group. Conversely, Location B and C were observed to carry out a fuller discussion of the young person's circumstances and consider all potential outcomes, including discussing potential outcomes of all available options. It is

⁴⁴ Campus officers are defined as police officers who are located within secondary schools and work within these schools and the local community.

⁴⁵ The individual characteristics of representatives were out with the scope of this research however will be likely to impact on the dynamics of the group.

important to note that Location A discuss the greatest volume of referrals and to some extent may use that model to 'process' young people quickly.

6.3.2 Potential for benevolence

The stated benevolent aims of the EEI approach on the part of practitioners as a holistic, multiagency approach to dealing with wellbeing concerns arising from offending were noted in interviews and supported by observations:

“Well we’re looking at that individual and it’s a holistic view of that person...it starts off as an EEI but what happens is it can actually turn into a health issue or substance misuse or relationships with family members...its looking behind that and digging a wee bit deeper” P6

Research observations highlight occasions where EEI discussions acknowledge the potential impact of bereavement on the young person and their behaviour. Decisions were made to support the young person through their trauma, rather than issuing a formal justice response. An earlier review of the WSA (Murray et al, 2015) noted that EEI operates as a flag for welfare concerns rather than a justice intervention service.

The researcher suggests that while outcome data is not available, the findings suggest that for some young people referred to EEI, support will be put in place in a timely, appropriate and proportionate manner. This approach deals with wellbeing concerns and limits the potential for further offending by the young person as described in the aforementioned case.

The benevolent aims of EEI, as a holistic, multiagency screening process will inevitably lead to some positive outcomes for young people in line with the stated intent of acknowledging and addressing young people’s offending as part of their wider wellbeing.

“We all as partners strive to take a holistic view and look beyond purely the offence or the offending behaviour and consider other factors that can impact on that...what’s happened in that child’s life in their home life, maybe it’s

factors which sit within the community...it's taking that holistic view and looking beyond what's presented in terms of the offence" P18.

The overwhelming view from all participants across all locations which first became evident during the scoping study was the considerable strength of reasoning and belief in the EEI approach and process as the best way to deal with low level offending by young people. Often practitioners used research evidence, policy, and principles to justify the approach.

Descriptive statistics, presented in chapter 5, show that the majority of young people in the cases discussed were referred to EEI for a single offence (90.0%). Of those where information was known regarding previous EEI referrals over a quarter (27.8%) were referred for a first offence. In the cases where the parental view was obtained 17.9% of families were noted as supportive of EEI action. Young people were noted as showing remorse for their actions in over 1/5 of the cases (21.4%) where the response from the child was obtained. For many of the young people involved in offending in Scotland, EEI provides a timely, effective, and proportionate response to a first offence.

It is important to acknowledge the extent to which it can be suggested that being based on good evidence and reasoning that EEI achieves its benevolent aims. Cohen (1979c) accepts that the benevolent intentions of alternatives such as diversion may be realised and experienced both as a better alternative, one which both exposes the injustices of old systems and is subjectively experienced by young people themselves. Cohen (1979c, 611) cautions that "*encouraging possibilities should not lead to naive utopianism*". Cohen's cautionary and critical analysis outlined in chapter 2 provides a theoretical framework from which this chapter will develop the findings, analysis, and discussion around the potential for EEI to create negative unintended consequences. However as will become clear throughout this research, without robust data collection on potential outcomes the impact can only be suggested and we are unable to conclude whether this approach is more or less beneficial or harmful to young people involved in offending.

6.3.3 Who is involved?

Section 5.2 of chapter 5 presents location summaries which provide detail into the local context of each EEI group involved in the research, including agency attendance at meetings. Variations in attendance were also raised in the scoping study phase of the research as an area of concern (Chapter 3, section 3.9). Locations A and C identified lack of contribution from Health agencies as a significant gap in their information and service provision options. Similarly, they considered the involvement of other, less traditional control agencies as providing the potential to offer a broader range of services and support to young people referred to EEI. For Location B and C a frustration was raised during interviews from both Chairs that decision options on occasions lacked flexibility and fit to the circumstance of the young person, due to lack of engagement and commitment on the part of agencies. This also limited the potential decision making options available to offer a truly holistic and child-centred response and represents an inconsistency in practice which could impact on outcomes.

6.3.4 Decisions and Reviews

In terms of decision making outcomes, a tendency to consider agency intervention was evident as discussions often centred on what interventions agencies could do or provide. The decision to take no further action, either as current measures are deemed appropriate or through a consideration of minimum intervention, was made in 4.3% of cases. The decision made most frequently across the case study areas was to refer a young person to work with an agency (50.7%). Agency referrals can be further broken down to either single agency support (38.0%) or referral for a targeted intervention (62.0%). EEI policies would promote best practice as aiming to support young people by addressing risk within universal services, such as education. Education received only 4.2% of agency referrals. The researcher concludes that an over reliance on targeted intervention, rather than universal support or minimum intervention, may arise as a product of multiagency working, with an expectation that agencies would intervene as they had been brought together for this reason. The implications of this are discussed at length in chapter 7.

Following an EEI decision being made, best practice as per the Core Elements (2015) would suggest the case then be closed to the EEI process. However, in Locations B and C, EEI retained the option to monitor and review cases for a period. On review, it was observed that cases would remain open for a period of monitoring as the worker allocated had not yet made contact with the young person, either at all or to a stage where the success of the intervention could be determined. Cases would be closed once the view was held by the agencies that the intervention had been successful. A perceived lack of engagement on the part of the young person was also observed to be taken into account in considering a review period for a case. Closure to the process was often contingent on the buy-in of the young person. The implications of such procedures will be analysed in more depth in the following chapter (7).

This section highlighted the level of variation in practice across the case study locations throughout the EEI process from the framing of the discussion to the decision making process to attendance, decisions, and reviews. Having considered the rationales and factors which influence practice, and the practical variations which arise, the following section discusses decision making in partnership. This section has shown that through variations in the communication of principles in both policy and practice the realisation of GIRFEC and WSA principles may be as much rhetoric as reality. The implications of this are discussed in later chapters in relation to the outcomes for young people (chapter 7) and the wider youth justice system and those who work within it (chapter 8). Partnership decision making emerged as a central theme of the research: a centrally unifying aspect of practice across and within locations; and a core principle of the EEI approach.

6.4 Decision making in Partnership

As noted in section 6.2.2 of this chapter, a key principle in the practice of EEI, and arguably a staple in modern youth justice practice in Scotland, is that of partnership working. Partnership is supported as a practice principle by underpinning research; is a stated policy aim; and emerged as a central theme in the responses of the research participants as a component to their practice. The findings also show considerable

variation in partnership decision making due to both internal and external issues around power and professionalism.

The research found that multiagency working was generally well established and viewed positively across the locations. Accredited to the successful functioning of the partnership group were interconnected notions of commitment, trust, respect, and increased knowledge. The tone and atmosphere of regular meetings were observed and support the embedded nature of partnership in each of the areas.

“But it’s also based on I suppose knowledge of the individuals you are working with and developing a respect for their professionalism... I would say there is a mutual trust and respect between the agencies.” P3

“People know what each other do. There is a huge level of trust that if someone says they are going to do something they will do it... I think having consistency of membership is really important and I think that it is just about trust and knowing what each other can deliver”. P13

This is consistent with literature from across social policy realms which suggest that facilitators to effective partnership working include: clear aims and objectives; roles and responsibilities; trust, collective responsibility, and mutual respect (Cameron et al, 2001; Campbell & Percy-Smith, 2000; Wilson & Pirrie, 2000).

There was an understanding that the relationships which were central to successful working in partnership had not always been in place and that a period of maturation within the multiagency group is required:

“The experience of the group, it’s gone through all the developmental stages that groups go through, there’s a level of trust and confidence within the partnership” P18

This, again, is supported by the partnership literature which suggests a history of working together facilitates improved interagency working as relationships develop. This also relates to a level of personal and professional commitment (Cameron & Lart, 2003).

Building relationships across professional boundaries required commitment to the *'shared end goal'* which was clearly articulated through a policy language and represented a high level of policy resonance. Commitment fosters trust, and vice versa, which is required to allow decisions to be made in a genuinely multiagency space. Interrelated notions of trust and respect had the potential to ease anxieties over decisions which exposed differing professional thresholds. Similarly, over time, commitment to working in this way created an increased knowledge about the role of others, both through the necessary aspect of efficient partnership practice and as a by-product of partnership working itself. While these conditions do not change the fundamental differences between partners in terms of understanding and thresholds, it goes some way towards effective working in the pursuit of a shared goal, which is supported by clear principles.

The overarching assumption identified throughout the literature is that partnerships are, by their very nature, an inherently good approach to dealing with social issues. A similar assumption was made by research respondents. At the most basic level, the argument is made that by *'putting heads together'* a partnership may result in new and innovative approaches that would not have been conceived without the combination of diverse professional perspectives (Rosenbaum, 2002).

While requiring and creating trust, commitment, and respect in pursuit of a shared goal is beneficial, partnership working is not infallible to other influences. This can be clearly shown through the process of decision making in partnership by drawing on concepts of professionalism and power as discussed below.

6.4.1 Professionalism and power

Sociologists argue that professions are created through the division of labour, allowing specialist knowledge and skills to be developed and refined (Frost, 2005). For Loxley (1997) the complexity of societal needs as well as scarcity of resources has resulted in the division of labour manifested in knowledge (medical model vs the societal model) and language (for example, client vs patient vs service user). This develops into skill and specialism establishing what we recognise as professional

identities. Professionalism is what links workers, agencies, and organisations to each other, rather than to other professions (Frost & Robinson, 2004). Professionalism is underpinned by the concepts of distinctiveness and differentiation, which Hudson (2007) identifies as evident within the literature through 6 key dimensions: trait, knowledge, status, power, accountability and culture.

Professional knowledge is created and maintained within professions (Frost 2005), through academic channels, formal education, training and accreditation, and informally, otherwise known as '*practice wisdom*' (Hudson, 2002). This knowledge constructs professionals' understanding of the world, their client group and the issues they face, key terms and interventions (Frost & Robinson, 2004). Professional identity comprises an individual's recognition of themselves in that field of knowledge (ibid). Widely held beliefs, practices, and working arrangements are defined and sustained through and within professions, creating a cultural acceptance of behaviour and practice to establish a norm. The Police, one of the agencies of relevance to this piece of research due to their centrality in dealing with crime, have a well-researched professional culture. '*Cop culture*' (Reiner, 2010). This 'Cop culture' is depicted as: authoritative; having a clear mission; victim focused; pessimistic or cynical; pragmatic; and conservative with a hierarchal command and control structure. McCarthy (2014) contrasts the command and control ethos of the Police to Social Work and other welfare based services whose practice is more akin to deliberation, participation, and inclusive decision making. Professional culture is not a precise reflection of all individuals within a profession; however, it is a generalizable overview of the agency at large.

The acquisition of professional knowledge developed historically through the division of labour into hierarchies of knowledge, where accreditation and training imparted value and status to particular professions (Loxley, 1997). Status differentials can lead to power struggles within mixed professional ventures. Payne (2000, 144) defines power as "*capacity to achieve a desired outcome*" through a range of methods. Power is not an actuality but a perception, in this case attached to professions. Power can act as a barrier to partnership working as the division, perceived or otherwise,

between professions provides a platform for conflict or for less powerful groups to withdraw from active participation (Payne, 2000). Partnership working in the justice field has been criticised as '*Police led*', stating their involvement is ultimately designed to '*take over*' other agencies and use them for their own ends of '*total policing*' (Scruton, 1985, in Lee, 1998). Easen et al (2000) states that conflict will exist in collaboration due to the different conceptualisations held by professionals on their role, purpose and practices.

Factors which raised doubt surrounding equality between partners in terms of EEI decision making were discussed by the majority of research respondents in the study. The facilitating conditions of effective partnership working (commitment, trust, and respect) to work towards a shared goal were observed throughout the data collection period. There was agreement amongst participants that superficially, decisions were made on a general consensus and level of agreement. Within, and across, locations no one agency or individual were identified as holding more decision making power or influence over the other members of the group. Additionally, no hierarchical structure was considered present within the group; this was supported by the observations carried out by the researcher.

The process of coming to a decision is a central component of EEI. Observations and interviews found agencies to be largely equal in decision making. Agencies are able to negotiate and exhibit more decision making influence using their expertise in particular fields or proximity to the young person to assertively support their decision, which if voiced was often final. Statutory agencies were viewed by participants to hold more process authority. Additionally, in locations B and C where a Chair was clearly allocated they were observed to have decision making authority. They would often put forward their decision as chair for partners to then agree with or challenge.

A number of circumstances were raised, both in interviews and through observations, which brought into question the neutral and benevolent nature of partnership working in EEI. Differentials in power arose in EEI and affected practice through

complex and interrelated mechanisms such as: process; resources; and agency and role. The practice reality highlights the potential limitations of partnership work through an example of a perceived breakdown in partnership, experienced in Location C. A breakdown in partnership was identified by participants from this location as occurring both prior to and during the period of the research, characterised by a lack of commitment from statutory agencies, namely Social Work and to a lesser extent Education. EEI practice was well established in all locations and had been common practice over a consistent period, however, in more recent times dwindling commitment, evidenced through a lack of attendance, was evident in Location C. Reasons for the reduction in the physical investment required for the successful running of EEI included: a particularly high turnover in staff within the locality, comparable to relatively consistent membership in Locations A and B; increasing pressures on internal agency workloads and priorities; and the reduction in or removal entirely of EEI dedicated resources or staff. Commitment from both individuals and senior figures, and adequate resources can be identified in the literature as facilitators of proficient multiagency working (Percy-Smith, 2005; Roaf, 2002; Aitkinson et al, 2002; National Audit Office, 2001; Campbell & Percy-Smith, 2000).

"I just don't feel there's real investment from social work managers in [EEI]...I don't know if it's the relatively high turnover in staff...In intake teams about sending representatives along, it's about time...And to be fair to social workers some of them do try and come along and it's just the challenges of their priorities..." P1

"I think initially when the EEI process started initially...there was a dedicated WSA/EEI...there was a central point and focus for EEI and development of WSA. That left and it's been almost a bit piece meal in respects...There's a dwindling commitment from some of the partner agencies..." P3

As Location C was chaired by a Third Sector agency, there was some belief that this may have impacted on the ease with which other agencies disengaged.

The example of Location C highlights that multiagency working as a central principle of practice will not ensure its successful implementation, nor will that implementation be guaranteed over time. The issues which all feature in Location C regarding partnership working, including processes, roles, practice, and agency will now be discussed at greater length.

All partners had respect for one another's particular specialism and expertise and the contribution they made to the group.

"So I feel it's very much a joint decision...it's very much a collective decision".

P8

While this was the case it also became evident that factors, often out with the control of individuals themselves, could produce power and distribute it to agencies or individuals at points. Police were identified as having a degree of 'process power' in so far as they held a gate-keeping role in deciding, based on guidance, which offences were eligible or not for EEI. Their ability to make decisions without guidance was limited, as particular offence categories could be interpreted as requiring specific responses.

"I think it's hard sometimes because the police are like, 'no they need to go to SCRA due to the nature of the charge which is really frustrating." P19

"I think sometimes for example the police will say, 'no a report has went in' and if a report has went in there is nothing we can really do...however if the young person is open for discussion and ready for a disposal then yes we are all equal around the table." P17

There were occasions where the referral offence was changed or additional charges were added based on new evidence. If the 'new' offences were deemed too high tariff for EEI by Police and the decision was made by the Police the case would be referred to SCRA for consideration of compulsory measures, no multiagency EEI discussion would take place.

This is in addition to the earlier discussed point of the Police having the ability to frame the discussion dependant on the Police report details. As young people and their families do not attend EEI meetings the extent to which young people are represented at the meeting depends on the attendees' knowledge of the child. Initially, the young person is presented to the group via the Police report. It became evident through observing multiagency discussions that the descriptions provided in Police reports set the scene for the discussion that followed; at points their accuracy and importance were challenged. For example, in a case of an assault, the young person was portrayed as violent and unsympathetic in the Police report and the incident was accounted as unprovoked. However, information provided from Health agencies revealed the young person's behaviour could be explained by their underlying health condition of autism. Similarly, statements such as 'lacks empathy' were made in Police reports without consideration of an individual's capacity to show empathy and the range of reasons for this.

Additionally, there were other internal issues within agencies which created 'process power' in terms of influencing decision making. Internal agency criteria restrict the groups young people could or could not work with. For example, standard Social Work referral processes would have to be followed to refer a young person to Social Work via an EEI referral. Often voluntary sector organisations are commissioned to work with specific populations in terms of age, offences, and severity. While the practical necessities of such processes are accepted this will arguably have implications for multiagency decision making, and impact on the outcomes for young people will be discussed in more depth in Chapter 7. The researcher would argue such criteria restrict a truly preventative and child-centred approach to dealing with young people involved in offending as well as creating power dynamics within the multiagency group.

For most agencies, with the exception of the Police⁴⁶, EEI is additional to their core duties. The role of EEI coordinator or EEI representative was considered additional to practitioners' daily workload and in a climate of reduced capacity and increasing workloads it was often considered less of a priority to standard role requirements. This was specifically the case for agencies that have statutory obligations to deal with welfare and child protection issues.

Other ways in which power was understood in terms of partnership decision making was through different levels of professional experience or position within the group. In keeping with a holistic approach, involvement in EEI groups is likely to include agencies external to the typical youth justice sphere. Levels of experience and expertise in working with young people, particularly young people involved in offending, were acknowledged as a potential influence on decision making.

"...so I think we all turn to [EEI member] for their expertise, knowledge and skills...however there is a likelihood that it unduly influences decision making at times. I think the point about rank and experience is important too."P1

The position of Chair was identified, both by participants and Chairs themselves, as having a 'final say' in the decision which was made.

"But there is the chair obviously of the EEI who makes the decision and it's open for people to agree or disagree at any point." P7

While certain processes were noted to have an impact on power in terms of decision making, power was never attributed to the Third Sector, whereas it was attributed to statutory agencies.

"I would say education, social work and police have a bit more but that's just my opinion". P12

⁴⁶ It is fully the responsibility of the Police to determine the suitability of the offence to be referred to EEI or otherwise.

“I don’t know if it’s necessarily a hierarchy but I think social work are key partners and police are”. P18

Third Sector practitioners themselves identified that they may perhaps lack power in terms of decision making in comparison to statutory agencies, stemming from a lack of perceived respect. Again, this draws on a long standing unequal relationship between the Third and public sector based on a lack of understanding and competition stemming from differential notions of professionalization (Robertson Trust, 2012).

“I did wonder about being the only local authority where it’s the third sector who are providing EEI, I wonder if it was SW would it have a bigger priority in people’s agendas”. P1

“We felt a wee bit like because we were a third sector we were being left out that process and I felt we had a lot to offer”. P19

The location the meeting was held in was also understood to influence power dynamics: with the host organisation having more authority; the location was being conducive or otherwise to the inclusion of others, such as young people and their families; or hosting the meeting as a way of showing commitment to or ownership of the process. In Location A, where the EEI Chair was not clearly defined, Police were often considered in charge due to the meetings being hosted in their premises. Additionally, in Location C the Chair thought the location of the meetings in Social Work offices presented a barrier to the potential future involvement of children and their families. Physical environment has been acknowledged as important in the meaningful engagement of clients who may face barriers to participation with services due to trauma or cognitive ability (Westminster City Council, 2015).

The final aspect which was raised in relation to power imbalances was the value placed on information regarding a child where the practitioner had a relationship with a young person. When the child was known to an agency that agency’s opinion and information was viewed as likely to carry more power in terms of final decision making.

"I think the agency that has worked the most with the child will have the most to say at the meeting and be able to guide the meeting, so you would take direction". P11

"Quite often I will take direction from the person that knows the young person best ". P1

"It's also not equal in the sense that some agencies have more information than others...they might know a young person directly, they might just be coming with attendance and that level of information. Whereas [agency] get to know kids over a number of years, by the very nature of it their contribution to the meetings isn't going to be as equal as someone who can only give you their attendance". P4

In terms of education, an agency which was specifically mentioned in this capacity, the proximity to the child could both be a positive and negative attribute in terms of decision making. Education practitioners' frequency and quality of contact with a child, and often their family, was considered an invaluable source of information with which to support decision making.

"I think it's really important that schools attend on a regular basis because they are the ones that have the most information about that child, they have that captive audience with the child and that's essential". P2

However, practitioners raised concerns, particularly in reference to the introduction of the Named Person Service (discussed in chapter 3) and the subsequent impact on EEI, that Education may not always advocate for decisions based on the WSA principles namely because of their proximity to the young person and their behaviour.

"I think sometimes our education colleagues might like to see more being done and they don't feel that for example a warning is sufficient. They feel that more is needing done but they are coming at it differently from their experience of their behaviour in school." P1

Concerns were based around the assumption that knowing a child would result in a positive, fair, unbiased representation of that child. It also highlighted different views held about specialist knowledge and understanding of criminal behaviour risk and a perception that Education staff would conflate poor behaviour, attendance, and attitude in school with poor behaviour within the community. Similarly, preferential treatment may be shown to children whose behaviour and attitude in school is not of concern.

“And it’s no disrespect to schools but there might be cases when they are about to leave school so it doesn’t get followed up, or that a young person’s involved in other things and they aren’t wanting to upset that young person and their family”. P4

6.5 Conclusions

In conclusion, this initial discussion chapter has addressed how EEI is understood by practitioners and subsequently carried out in Scotland. In terms of how EEI is understood, the aims and underlying principles of EEI are supported by a high degree of policy resonance. Moreover, as chapter 3 evaluated, the policy which supports EEI has developed from varying conceptual justice frameworks, this chapter shows that EEI is influenced by a similar range of principles. Together these principles provide a common-sense, evidence based, and benevolent approach to working with young people who offend. In reference to how EEI is practised in Scotland, the discussion in this chapter highlights that EEI is subject to a high degree of local variation at almost all stages of the process.

What unifies practice across Scotland, alongside high level policy aims and principles, is partnership working. Partnership working serves to unite disparate agencies in recognition of the holistic, child-centred approach to offending behaviour. However, partnership working is also shown to be fallible to issues of power. The evidence presented in this chapter begins to then scrutinise the benevolent assumptions on which practice is based which is continued in more depth in chapter 7 where further

consideration is given regarding the implications for both young people and the wider youth justice system.

Understanding the factors and rationales underpinning practice and the potential implications of these inconsistencies in practice has been viewed specifically in this chapter in terms of practitioners and their practice. This will be considered in terms of potential outcomes for young people in chapter 7. Following consideration of the consequences of variations in practice, reflection on minimising harmful or unhelpful and measured ways forward will be produced in chapter 8.

7 UNINTENDED CONSEQUENCES: WHAT ISSUES AND CONCERNS

DOES EEI RAISE?

What we say we do, and how that works in practice has implications for the decisions we make. Conceptually, intervention under Early and Effective Intervention (EEI) has the potential to create negative unintended consequences. In chapter 6 power was shown to be unevenly distributed under EEI partnership arrangements. The conflation of risk leads to repressive welfarism, and under the guise of wellbeing, rights are undermined. These consequences have implications for practitioners, young people, and the youth justice system. The result is: further labelling of the 'usual suspects' through a failure to implement minimum-intervention alongside diversion; and an extension of the formal youth justice system. This chapter will draw on literature which considers: rights, due process and justice, labelling, net-widening, and up-tariffing. This chapter looks at how decisions were made in the EEI context and the potential implications that has on outcomes for young people and the potential wider system effects.

7.1 Introduction

Chapter 6 outlined the variations in principles and practice of EEI as understood from the perspective of the practitioners involved. Firstly, the chapter critically discusses the rationales and factors from Scottish youth justice policies and principles which underpin practitioners' work in relation to EEI and include a mix of welfarist, punitive, and pragmatic sentiments. Secondly, findings are presented relating to how EEI is practised within the case study locations, discussing the range of variation in how EEI is practised and the implications of the unifying partnership approach.

This chapter has critically discussed the implications of EEI practice in relation to the outcomes for young people and the youth justice system. The chapter presents the findings in relation to the potential for unintended consequences to arise from

practice. Analysis will show that EEI has the potential to increase intervention in the lives of young people, to the particular detriment of those already seen to be vulnerable and marginalised; and fails to fully adopt and implement a rights-based approach.

This research is not able to comment on the impact of decision making on outcomes for young people in any definitive terms and acknowledges the methodological and ethical difficulties in claiming impact and effectiveness of any intervention on rates of crime. Findings from this research are used to discuss the potential consequences of EEI practice. Earlier evaluations of the Whole System Approach (WSA) have argued that:

“EEI and Pre-referral screening (PRS) allow young people to receive appropriate levels of support, whilst passing through the process with relatively little contact with formal agencies. Within the PRS process, offending behaviour is treated as a flag for welfare concerns, rather than a substantive issue in its own right” (Murray et al, 2015, 27).

The findings of this research provide an alternative account and suggest potential impacts which render the potential for net-widening, up-tariffing; and blurring of boundaries detrimental to the upholding of rights, a reasonable potential outcome of current EEI decision making. Each of these issues will now be discussed in turn, although there exists significant overlap and interdependence between what Cohen considers as *“thinning the mesh”*; *“widening the net”* and *“blurring the boundaries”* (Cohen, 1979a; 1979b; 1985).

The culmination of the principles outlined in chapter 6, while appearing to have benevolent intentions on the part of practitioners, is shown to create tiers of service, based on internalised eligibility criteria and thresholds. There is a potential to overestimate risk, resulting in pre-emption and retention of young people in a system. Overall, a combination of these and the momentum which is created from working in partnership creates a tendency to intervene in the lives of young people.

This highlights the possibility that EEI has become a formal system with the potential to up-tariff and net-widen young people involved in low level offending behaviour.

7.2 Net-widening

Net-widening occurs as a result of the expansion of diversionary systems which cause more young people to become subject to processing via a system in which they would not previously have entered (Cohen, 1985). While diversion, stemming from theories of labelling, aims to avoid unnecessary contact with systems, Cohen's (1985) central argument contends that despite the apparent benevolence of diversion agendas the reality is the strengthening and expansion of social control, which permeates new areas of social life. *"The machine might be getting softer but it's not getting smaller"* (Cohen, 1979, 350). Rather than presenting 'alternatives', diversionary systems represent an expansion of the system and its expansion invites new populations of target groups. While the system expands, labelling theorists would argue that the increased contact will propel certain individuals faster and deeper into the system, as discussed in chapter 2.

Cohen (1985) illustrates the potential for diversion to create wider nets, deeper nets and different nets which expand the formal control apparatus. Informal diversion brings in more individuals than under the old system, intervention is increased, and new interventions are created to provide services. Additionally, the informality of diversion can be questioned as there are a range of conditions which must be met, for example, engagement, and leading to the potential to up-tariff. Diversion from a system, which was intentionally diversionary in itself, is in reality diversion into another part of the system as:

"Only traditional diversion is true diversion in the sense of diverting from. The new diversion diverts - for better or worse - into the system" (Cohen, 1979a, 349).

As the system is not intended to deal with those higher end offences, which fall under a different set of justice principles, the system simply widens to intake new cohorts while holding for a period those who are 'destined' to reach the formal system:

“Traditional deviant populations are being processed in a different way or else new populations are being caught up in the machine” (Cohen, 1979a, 349)

The following section of this chapter analyses and discusses the findings in relation to the potential net-widening of the system, considering how wider, different and stronger nets lead to the potential for overall net-widening and up-tariffing, of the most vulnerable young people referred to EEI.

7.2.1 Wider nets

For Austin & Krisberg (2002, 259) the wider nets argument suggest that diversionary *“reforms increase the proportion of subgroups in society whose behaviour is regulated and controlled by the state”*. The wider-nets argument suggests that EEI is an addition of the system, which extends the penological gaze to more young people than would have been the case under the previous system. The potential outcome is for system contact to be extended to more young people, or at least to the detriment of the 'destined' for system contact, less proportionately.

EEI was designed to screen low level offence referrals which would have previously been sent to Scottish Children's Reporters Administration (SCRA), to address low level concerns in a timelier and appropriate manner and avoiding crisis intervention. Concerns were raised in relation to the high number of offence referrals which were made to SCRA where the decision was to take no further action - often this was due to the requirement of measures of compulsion not being met (Consulted Ltd, 2010). Additionally, findings from Scottish longitudinal research found that contact with the Children's Hearing System, as part of the formal justice system, was detrimental to the likelihood of reduced offending (McAra & McVie, 2007). EEI was created as a diversionary system from the Children's Hearing System (CHS), which is a diversion from court.

The thresholds between each system are fundamentally different - with wellbeing concerns under EEI, in the name of early intervention, extending the criteria for inclusion:

“They tend to be crimes or charges that the workers around the table can deal with at that level rather than further up” P7

“Its early intervention so it’s about crimes we can go in and give education about and try and inform the young people on making positive choices” p5

Behaviour that would not have previously merited intervention in traditional systems becomes a cause for concern through ‘diversionary’ systems.

The centrality of holistic decision making, based on a range of wellbeing concerns, to the decision making practice at EEI has been discussed in chapter 6. The analysis of observations found that only 29.3% of referrals highlighted wider wellbeing concerns in the life of the young person. This tentatively suggests that contrary to the policy and practice rationales, offending at an early and low level may not be a strong indicator of wellbeing concern for young people involved in criminal behaviour. Significantly, this finding is in stark contradiction to the underpinning philosophy of the entire Scottish youth justice system, as noted in chapter (3), particularly the Kilbrandon ethos which premises that offending is an indicator of an unmet need in the life of the young person.

As noted in chapter 3, the percentage increase in referrals to EEI is over 5000% and is disproportionate to the decrease in offence referrals to SCRA. Taken together this may be suggestive of a net-widening effect.

Certainly there was consideration of the potential for net-widening from practitioners themselves; however, the overarching assumption of benevolence appeared to supersede such concerns in any meaningful way:

“I think there is more intervention but in an informal way, rather than formal way... Whist more children are getting a service and you could argue that is

net-widening I think its good net-widening as opposed to inappropriate net-widening” P13

For Cohen (1979a), framing the traditional system (in this case CHS) as ineffective positions the alternative system (in this case EEI) as a preferable alternative system thus establishing its benevolence. This view emerged in the interview responses where EEI processes were compared to referrals to SCRA and CHS and is discussed in section 7.3 of this chapter. Similarly, as concluded in chapter 6 practitioners involved in EEI fully support and believe in the benevolence of the approach, justified by policy and theoretical rationales which limit potential criticism.

7.2.2 Different Nets

‘Different nets’ is the mechanism under which more young people are included in the new system than would have previously been under the old system via “*reforms that transfer intervention authority or jurisdiction from one agency or control system to another*” (Austin & Krisberg, 2002, 259). EEI acknowledges all offending as a potential indicator of wellbeing needs, rendering all behaviour open to scrutiny and processing via the system under the benevolent intentions.

“When I’m assessing a child it’s not purely based on the offence, its looking at everything and any other information we have in relation to concerns about their family life, truanting from school, you know anything that raises a concern, I will be bringing to the table to have a discussion” P2

Additional criteria impacted on decision making such as the family and their previous interaction with state agencies:

“Because it might appear that something is very low level and no one has involvement with the young person but it might be that a name of the family is triggered...and we might need to get in there with an intervention to try and stop similar type behaviour”. P13

Previous referrals to EEI, Vulnerable Person (VP) concerns, the offence and its severity, and the response, and engagement of the young person and their family is also taken into consideration when making decisions about young people.

“So the ones that come to EEI we’ll know the level of that and if it’s too high tariff then it’s going to SCRA or the PF...another factor that comes into play, along with the threshold of the offence, is the frequency of it as well. If we are dealing with 5th or 6th offence we’d have to justify why we are dealing with that. You are looking at the young person’s response: were they particularly contrite, were they aggressive...So the attitude of the young person to the offence. The nature of the offence as well”. P4

The impact of different nets returns to the central tension outlined in chapters 2 and 3 regarding issues of contention between identifying and addressing risk without conflating and discriminating based on need.

As the complexities of the conceptual underpinnings of this approach have been recognised in chapter 3, this research would challenge the assumed benevolence of EEI where, *“offending behaviour is treated as a flag for welfare concerns, rather than a substantive issue in its own right”* (Murray et al, 2015, 27) by considering the potential outcome of all risk being treated as need, which can be calculated and mitigated against.

The concern regarding different nets is the potential for wellbeing concerns to lead to a disproportionate response which has the potential to negatively impact on young people through a process of labelling and stigmatisation. The potential for socioeconomic disadvantage to be reproduced and problematized through a risk-based justice is well documented (Goddard & Myers, 2017; Van Eijk, 2017; McCarthy, 2011). Through the ‘criminalisation of social policy’ the relationship between the criminal justice systems, welfare systems and individual and familial conduct is obscured (Crawford, 1999; Muncie and Hughes, 2009; Muncie 2009, 2006; Wacquant, 2001, Jamieson, 2012). The following quote summarises the potential demonization of vulnerable young people.

“...if they’ve got nothing to hide and the kid’s healthy and safe and happy then there’s not going to be a need for interventions. Yeah there probably is a lot more intervention but I think that’s probably a good thing so we don’t miss the ones that are”. P2

This chapter develops the argument that, while the boundaries are blurred and rights are ignored, this has the potential to increasingly become the dominant narrative and underpin decisions.

7.2.3 Stronger Nets

The stronger nets argument suggests that intervention increases as a result of the system expansion: *“reforms that increase the states capacity to control individuals through intensifying state intervention”* (Austin & Krisberg, 2002, 259). McAra & McVie (2010) found that contact with formal systems, often in the form of intervention with agencies, equated with increased rates of reoffending. EEI was implemented alongside the WSA to take cognisance of low level offending behaviour committed by young people, to respond in a proportionate manner. A concern of this research is that the process, due to its assumed benevolence and multiagency practice, has an over emphasis on providing young people with a service. Rather than EEI being an alternative system which offers diversion, it is simply an extension of the system which offers formal intervention. Rather than being supported to desist from further offending through diversion from the criminal justice system (McAra & McVie, 2010; 2015) young people are diverted into the criminal justice system. This is both harmful and counter-intuitive as diversion is based on the understanding that formal intervention has the potential to limit the life chances of young people involved in those systems through processes of labelling and up-tariffing.

The analysis of the findings suggest potential causes for an over reliance on intervention are twofold. Firstly, in bringing agencies together in the pursuit of an aim, it is natural for service providers to want to provide a service. Secondly, in assessing the whole child, behaviour may be conflated with wider concerns which suggest a need to intervene is greater than what may be the case.

“They make decisions about what; the focus is not whether it should be a referral to the reporter or no, the focus is what intervention does that young person need...” P15

“I’m asking myself does it require an intensive intervention, a shorter piece of work, or police or a family support worker to go out”. P4

The descriptive statistics presented show decision to intervene is taken more frequently than the decision to take no further action; subsequently, interventions are increasingly targeted as opposed to universal. While viewing the frequency alone cannot provide evidence of a correlation taken together with the wider findings this can be suggested.

Potentially the proportionality of the requirement for intervention could be brought into question. Rather than considering the professional judgment as interpretive, decisions were evidenced as becoming increasingly adversarial and process driven:

“There’s been ones which have come to us...and we’ve got the feedback in terms of anything in the future that comes along, we’ve exhausted all the options and that should go to SCRA” P4

Decisions were not always made in relation to the circumstances of the young person but a range of processes and eligibility criteria which have the potential to up-tariff young people disproportionate to need or risk.

7.2.4 Up-tariffing

Taken together, the effects of net-widening are the potential to pull more young people into the youth justice system and progress some through the system more quickly and is based on criteria which are not proportionate to their offence, risk or need posed. This is known as up-tariffing.

There was evidence that internal eligibility criteria could result in a tiered approach to EEI, where decisions are based on previous responses and not on the circumstances and behaviour currently faced.

“I was thinking about how I potentially describe tiers of service and it’s about people’s thresholds...When we look back at previous referrals, [third sector agency] or addiction services its almost seen as the highest level, and rightly so because we should be looking at universal services... But for me, just because they’ve had a referral to [agency] before doesn’t mean to say they shouldn’t get a police warning next time”.P1

“Sometimes we do get referrals that have 4 EEIs and you think ‘this shouldn’t be coming to us”P6

The potential impact on this for young people is that they could be up-tariffed. Introduced to the EEI system earlier in life could result in any future further offending being dealt with more severely in response to the number of referrals rather than the level of concern.

Some practitioners did acknowledge the potential for up-tariffing in current practice and the requirement to be mindful to militate against this in practice.

“And for me, just because they’ve had a referral to [agency] before doesn’t mean to say they shouldn’t get a police warning next time. That’s a path I’m leading [police] down. And just because they’ve been to EEI once or twice already doesn’t mean they shouldn’t come back again....Or because they didn’t engage the first time doesn’t mean they shouldn’t be offered the service again. P1”

There were a small number of cases where the number of offences over time influenced the decision to refer a young person to the Children’s Reporter, rather than the concerns around the behaviour. The number of offences taking referrals out with the ‘criteria’ for EEI supports a notion of tiers of service. Observations found decision making could be influenced by future potential risk. Often the potential of a

young person to reoffend was considered in the decision as a way to manage risk. This could lead to disproportionate decision making based on pre-emption.

“[Evidence of non-engagement] but you know those are the ones that are going to reoffend basically...”P8

This is classed as ‘back-end’ net-widening where individuals are pushed through the justice process due to perceived failure to adhere to the increased conditions of control and scrutiny (Tonry & Lynch, 1996). While ‘front-end’ net-widening is what occurs due to the mere increase in contact with general populations (Tonry & Lynch, 1996) – ‘back end’ net-widening is most concerning for those already vulnerable to the control of the system.

7.3 Revisiting the ‘usual suspects’

One of the most significant findings in terms of The Edinburgh Study of Youth Transitions and Crime is the conceptualisation of the ‘usual suspects’: a group of young people who are subject to selection effects of the discriminatory working practices of key institutions (McAra & McVie, 2005 & 2007). While their behaviour arguably warrants a formal response, the study found processes of multilevel labelling, based on association, previous form, and visibility to control agencies resulted in repeated and more intensive forms of intervention (ibid). The latest phase of findings suggest that while the current approach is associated with the apparent reduction of offending by young people, the system continues to create and maintain its core tutelage from the usual suspects through a process of cultural dissonance. This resulted in a concentration effect of reduced numbers of entrants into the furthest reaches of the system but who are selectively drawn from the most vulnerable and challenging backgrounds (McAra, 2016; McAra & McVie, 2017). The use of binary logistic regression modelling, combined with wider statistical information regarding trends in youth offending and populations, provides statistical analysis to support the development of the findings of the large scale Edinburgh Study. The longitudinal research does not take into account the introduction of EEI as an extension of the youth justice system in Scotland.

While the current research cannot produce any outcome data to the effect of the Edinburgh Study, the findings presented in this section suggest that similar patterns of labelling and stigmatisation, resultant in entrenched system contact, may occur earlier in the system under the same conditions explained in the Edinburgh study. It is important to note that the Edinburgh Study is unable to account for EEI practice as it pre-dates the implementation but does consider WSA policy in terms of the most recent set of data. In terms of EEI decision making, 'being known' was considered influential in decision making, and similarly, the system appears to differentiate levels of risk which could negatively impact on those deemed 'too risky'.

7.3.1 Being known

The findings presented earlier in this chapter support the analytic potential for processes of net-widening and up-tariffing to occur via the practice of EEI through variations in practice. The findings suggest complex and interconnected decision making including: tiers of service based on internal criteria and thresholds rather than proportionate to need; an over emphasis on risk, potential risk and retention of risk; and a tendency to intervene. This section suggests that the impact of net-widening and up-tariffing is particularly pertinent for those who are already being considered as potential 'usual suspects'. This research found that 'being known' to an agency or professional was found to impact on EEI decision making.

In terms of decision making, referrals were frequently made to agencies on the basis that they had previously worked with the young person. Often this decision was made to build on the relationship between the worker or service and young person in the hope of reducing further reoffending. It may also constitute disproportionate decision making based on circumstances of the young person rather than the level of wellbeing, risks or need suggested by the current offending behaviour.

Often by the time young people were discussed at EEI an agency representative had spoken to them about the offence and were able to provide some feedback on their attitude to the offence, remorse, and their account of circumstances. This was the case in Location C, which was the smallest of the authorities, and Location B, where

a learning community model was used. Being 'known' gave professionals the opportunity to represent young people and provide an insight into their lives. There were observations of impassioned pleas on the part of workers who knew the young person, could comment on their journey, and the potential impact of decisions. For example, agencies who worked closely with a young female in location B were able to explain her care background and her close relationship with school, which was viewed by her as family. Despite her behaviours, services that supported her were keen not to make decisions which would exclude her and were conscious of the potential an 'offender' label would have on her. This was taken into account and the decision was made to refer to Education to address the offending behaviour. Conversely, for young people whose conduct continually presented a challenge for the agencies working with them, there was often a sense of hopelessness regarding their behaviour and potential outcomes.

While presenting behaviours may provide a justification for intervention, a degree of urgency was observed which was not always matched by a young person's level of offending. Persistent, yet low level behaviours often culminated with an EEI referral which was then used as a justification to deal with the lower level behaviours.

"I can almost go through the log and pick out the young people that if they aren't known to anyone will get a warning...so before you go in you have a rough idea of what is going to be happening".

As well as pre-emption, there was a potential to err on the side of caution. This position was understandable when considering risk, however limiting it might be for the child or young person.

"I mean some of them it's easy, it's plain to see they've engaged in EEI they absolutely get that what they've done wasn't the best thing for them to do, they've taken on the piece of work and you know you're not going to see them again. But they are easy. There are ones that are I'll maybe say can we monitor for a wee month because you're aware of rumblings, if they are on the periphery of things in school then you don't want to take them off EEI just in

case you're going to need another wee bit of work, so we'll kind of hold them for a month to see how things go, and if it settles down then we'll take them off then" P8

In constructing a similar argument to that of the Edinburgh Study, the application of labelling theory would suggest that the same groups of children are becoming the focus of agency attention, regardless of seriousness or frequency of offending and its associated correlation to wellbeing based on unintentional misinterpretation of the evidence base around risk and offending (McAra & McVie, 2011). The findings of this research, at the level of EEI, extend the potential harms and implications for outcomes for young people involved in offending in Scotland who are already identified as vulnerable and marginalised.

7.3.2 Bifurcation

The concept of bifurcation, originally coined by Bottoms (1977), suggests that:

"Distinctions are made between the many relatively minor offender who could be effectively diverted, and those whose persistence and increasingly serious offending would qualify them for ever tougher and more demanding penalties" (Smith, 2018, pp.70).

The findings of this research suggest that discussing offending under the auspices of wellbeing will inevitably lead to a two-tiered system as proposed under bifurcation.

As noted in chapter 3 central to the development of the youth justice system is the balance and tension between proportionately addressing the offence and the circumstances of the offender. Chapter 6 presents the findings which suggest these tensions are present in practice and influence decision making. During observations, the decision making processes reflected the changing nature and extent of information sharing on the young person and their circumstances, and the offence and the circumstances of the incident. In the absence of information about the offender the decision was based exclusively on the information available about the

circumstances of the offence. Where information was known about the young person and their circumstances, in keeping with the holistic multiagency nature of EEI, the central point of reference for decision making was the potential need to intervene to improve their circumstances.

Taking the concept of bifurcation to its fullest, the system expansion which is seemingly underpinned by benevolent principles differentiates between the levels of normalised behaviour, and those which pose a greater threat and therefore require treatment out with the system (Smith, 2018). Cohen (1985) suggested that wide spread diversion may result in the broader perception that only the worst young people reach the inner layers of the system and imply an inherent failure on their part for doing so. The findings of this research similarly identified system thresholds which impacted on the outcomes of groups of young people.

“16 and 17 year olds, I think there are definitely more 16 and 17 year olds we could be doing things with than we are necessarily grasping at the moment... would think there is stuff going in for diversion that we could bring to an EEI meeting. The police would see the 17-year-old and book him and there’s not a social worker standing over saying we’ll take him” P9

“We split ours into overs as well [age 16/17] and very few overs come to EEI because they are either custodies and the report has gone to the PF or they have been issued with a recorded police warning, which is quite often the case now”. P2

“The biggest one is sexual offending, that’s the biggest one the most joint referrals a lot of the kids we are taking to hearings are often involved in some kind of and its more behaviour and sexualised behaviour” P15

Practitioners highlighted a missed opportunity to intervene and support young people who may be displaying more concerning behaviour including crimes which come under the Lord Advocates Guidelines (sexual offences, hate crimes, and knife crimes). It was clear that the principles of EEI did not extend to these offender groups, despite some areas identifying services and agencies able to provide services and

support around these issues, which could be allocated quicker through EEI than the alternative system Diversion from Prosecution.

It is unclear if views around thresholds influence the system or vice versa but the system was identified by participants as creating barriers for timely, appropriate, and proportionate support for: older young people; young people who are alleged to have committed particular offences; and young people already involved in other parts of the system.

Despite identifying unifying principles which support multiagency working in pursuit of a shared goal, differing professional thresholds remained and impact on decision making and outcomes for the young people referred. Varying thresholds were seen to effect decision making for particular groups such as older young people, girls and young women involved in offending behaviour, and young people whose offending is of a sexual nature.

“I think 16/17 year olds is an area we’ve still not resolved, we’ve got a strange system that is very very child friendly until you are 16 and then you are whacked into it and if you are not on supervision then you’ve had it”. P15

“Possibly also there’s an issue in relation to the young women... if there was alcohol involved then that’s a risk not just in terms of their offences but also in terms of their increased exploitation or harm, which could trigger it into a SCRA situation rather than an EEI because they are deemed, it takes it into a different realm....I would say for women we are still risk averse rather than risk aware”. P4

“All sexual offences are being jointly reported now regardless of the severity and I think that a lot of these behaviours are very low level behaviours and a lot of them the young person just needs education, particularly if it’s around the communications act and sexting. A lot of that is age and stage appropriate but kids are being criminalised for it and we have this huge issue being made of it. Before, we were able to screen these offences...but now that’s been completely taken away from us and it’s not on anyone’s radar”. P13

These groups were viewed as more difficult to work with or their behaviour more serious than suitable for EEI and so their case would be referred on to SCRA or the Procurator Fiscal (PF). This highlights that decision making in respect of some groups of young people may result in discrimination under the current approach to EEI.

In viewing the culmination of these potential impacts, the potential for labelling of young people via the EEI process is potentially realisable. In research exploring young people's journey through the youth justice system, Nolan et al (2017) similarly found that for the most vulnerable and complex young people in the youth justice system the intentions of the WSA policy were in practice not fully experienced.

7.4 Blurring the Boundaries

Cohen (1985, 350) argues that while the benevolence of the system in theory, and often in practice, may be realised, "*the softness of the machine might also be more apparent than real*". Blurring the boundaries of the youth justice system, its periphery, focus and clients, can be seen to have both intentional and unintentional consequences. Cohen (1979a) considers one result of the blurring to be the masking and disguising of the negative unintended consequences of the system expansion. Specifically, through either low visibility or accountability, or under alternative principles altogether, the legal protections and processes, and wider bureaucracy that characterised traditional systems are pervaded. In reference to the findings of this research: the blurring and masking of the system results in the system evading due process and meaningful consideration and acknowledgement of children's involvement and rights.

7.4.1 Child at the Centre?

Children were not directly involved in EEI decision making in any of the locations in this study or in any of the locations involved in the scoping study (see chapter 3). It can be said with certainty that the practice of inviting or involving young people in decision making is not common practice within Scotland at the level of EEI. The overwhelming consensus from the interview responses was that children and young

people, as well as their families, were not included in the decision making process in any meaningful way.

“Not at all. Not in the slightest. And in terms of the UNCRC and legislation absolutely they should be represented”. P14

*“There’s not really an avenue to ask ‘what do you think or what do you feel about it’. It’s more done to them cos the decision is made by the partners.”
P19*

The result is the representation of the young person’s views being exclusively presented via professional opinion, which have also been shown to be informed and influenced by wider considerations such as processes and thresholds. Similarly, the consideration of possible involvement of young people and families in the EEI process was viewed in relation to professional concerns. The main barriers to including young people centred on the practicalities of doing so: identifying who would elicit views and how they would do this was raised as an issue, as well as the time it would take to provide young people and their families with the opportunity to be involved.

“... I mean the practicalities of how quick you get through the agenda would be an issue” P1

“Trying to engage them can be challenging so if you had to wait for them to engage you probably wouldn’t be able to discuss them...” p7

Explicit in the EEI related policy is the principle of being child-centred: *“...anyone providing that support puts the child or young person – and their family – at the centre...”* (Scottish Government, 2012, 3). ‘Child centeredness’ stipulates all children should be included in all decisions made about them. This is a reflection of adoption of the rights movement which acknowledges:

“Children do have some degree of agency and choice (see Davies 2011); and that to assume otherwise is to assume the inherent passivity and determining developmental plasticity of children” (James 2013, 15).

GIRFEC (Scottish Executive, 2007, p16.) requires ‘children and young people should have their views listened to and they should be involved in decisions that affect them’ and the UNCRC clearly states that all young people, regardless of their circumstances or behaviour, should have the right to have their say in matters that affect their lives.

While the practicalities of involvement were noted, there was a willingness to consider the potential for inclusion and the merits of including young people were expressed.

The purpose of involving young people and their families in the process was identified by respondents as supporting effective decision making, increasing accountability, and supporting a rapport and relationship between practitioners, children and their families.

“There’s not really an avenue to ask ‘what do you think or what do you feel about it’. It’s more done to them cos the decision is made by the partners.”

P19

“I would say in general they feel very distant from it, they are aware they got a letter and they are aware a thing happened but they don’t feel part of the process I would say.” P14

The result of not involving children and young people directly was two-fold: the ‘right’ decision might not always be made, as there is a gap in information; and families and young people feel excluded from the process, and this may impact on engagement.

“Cos we think we know what they need, but if they aren’t talking to us then we don’t”. P14

There are different opinions but you have to make a decision at the end of the day. And without having the child or the parents around the table sometimes that’s quite difficult. P2

Growing evidence highlights the importance of involving young people in decision making and assessment and underpins the child-centred approach adopted by

GIRFEC and similar policies. The practice of user involvement in evaluation and design is common in other areas of public policy, particularly in Health where there are established platforms and opportunities for reflective responses. Similarly, research evidence shows there to be multiple benefits, both for the participant and the wider system and society, to primary stakeholder's involvement. Through a review of research and evaluation projects it was found that young people gained "*important skills and competencies while finding out more about themselves and building social capital*" (Zeldin et al, 2006 cited in Walker, 2007, 321). Others have described the opportunity for young people to participate as "*cathartic*"; and "*empowering*" (Lee, 1993, 107; Walker, 2007, 321). Evidently any one of these outcomes would be of importance to the desistance process of young people and therefore a beneficial and worthwhile pursuit. Moreover, user involvement can be advocated in terms of enhancing the quality of assessment or evaluation outcomes. For Walker (2007) young people, as primary users of the youth justice system, provide legitimate insight into its effectiveness and provide a unique reflection of the system.

Attempts have been made to involve young people involved in offending in evaluation, for example the ASSET evaluation tool. It is used to calculate risk with young people across the UK, including Scotland, and includes a section for self-assessment called, '*what do you think?*'¹² However, the involvement of young people involved in offending has been criticised as tokenistic as it is carried out '*on them rather than with them*' (Hart, 1992: cited in Suthers, 2011:8). Case (2010) further argues it offers a limited opportunity for participation as it forms only a small part of the overall assessment and is often ignored or overruled by the practitioner's opinion. Similarly, the CHS, based on children being at the centre of all decision making, has faced criticism on its meaningful involvement with children. Research involving young people involved in the CHS suggested they did not always feel listened to or able to understand the process in which they were involved. Further, the 'All about me' form which is sent to all young people and intended to give them a means by which they can tell panel members how and what they are feeling, was

seen by very few of the children or young people, was poorly regarded, particularly amongst older young people, and was hardly used (Holmes et al, 2014).

There was evidence that even when children's views were listened to through the EEI process their views were not heard, acknowledged, or valued in decision making. In one notable observation, a case arose where a young person consistently denied the offence. A practitioner recounted the child's account to the group of professionals, which the child had also given at the time of charge and explained that on this occasion she was in agreement with their version of events. Despite this, the decision of the group was that the circumstances around the offence were such that the innocence of the young person was questionable and that work should be undertaken with the young person based on the offence in question. While the standards of evidence and the search for proof or truth are not of consequence to this observation, the interesting aspect is the *"potential for group norms and pressures to perpetuate the predominance of adult views and opinions over those of children and young people in assessments"* (Helm, 2011, 903).

Therefore, the implications of not involving children and young people, and their families, in EEI processes are numerous. The process falls far short of the aims and hopes of the legislative basis on which the process rests, namely GIRFEC and UNCRC. The rights of young people to consent to information sharing and be involved in decision making about them is ignored, not forgetting that the wellbeing concern is at a far lower threshold than welfare concerns. Where included, to at least some extent, their inclusion was not viewed meaningfully in decision-making, and disappointingly was refuted in purely practical terms. Overall, these issues may impact on the legitimacy and subsequent success or otherwise of any interventions carried out with young people as a result of their involvement with youth justice systems (Creaney, 2014). Additionally, meaningful participation may lessen the social isolation and stigma that is common to many young people involved in offending and may provide opportunities to develop pro-social skills and confidence (Morrison and Gibson, 2017).

7.4.2 Rights and Due process

Central to the inclusion of children and young people are notions of child development and subsequently their rights, as noted in chapter 2. In line with the development of international law on children's rights, in addition to age appropriate treatment and best interests of the child, children and young people in conflict with the law should, subject to age and maturity, be able to effectively participate (Article 40 (2)(b)(iv) of the United Nations Convention on Rights of the Child (UNCRC)). While enshrined in legislation such as GIRFEC, and underpinned by international conventions, barriers to the full realisation of a rights-based system include ignorance to the premise of a rights-based approach, and mechanisms for this to be realised (Cleland & Sutherland, 2009). Cleland & Sutherland note the somewhat ironic reality that children's rights are harder to realise in the cases where they are most needed, for example in the youth justice system, specifically because children are less visible and their presence constitutes a challenge to societal norms regarding children and childhood. This section demonstrates that EEI practice struggles to acknowledge and enact a truly rights-based approach to dealing with children and young people involved in offending.

Throughout observations there were examples where the information young people had received around their charge, the EEI process and the potential outcomes were unsatisfactory. There were occasions when young people and their families were unclear if they had in fact been charged with an offence or not, the system in which the charge would be dealt with, and the potential outcomes and implications this would have. Some families and young people would seek clarification of this prior to EEI by contacting the Police however it was often viewed as the role of workers to clarify these issues as part of the service and support offered via EEI.

"[young people] don't understand the difference between a charge and a conviction. They don't understand that after a police officer has been out and charged them, why I am coming at the back of that, it's been dealt with". P17

“In terms of EEI I act very much as the conduit of information. We have had situations where they’ve been told by police that nothing was going to come of it, or they were just going to get a warning or it was going to the reporter so I think sometimes that information is a bit lacking”. P13

“Yeah I think the police understanding of EEI and how they share information with young people [is a gap]”. P1

The Data Protection Act (DPA) is clear on the legal requirements for personal and sensitive data to be shared under explicit consent, ensuring fairness of processing, that individuals are aware of the information that will be shared and for which purposes. The Supreme Court Judgement on the implementation of the Named Person Provision of the Children and Youth People (Scotland) Act 2014 has raised concerns in regards to the upholding of rights of young people.⁴⁷ On reviewing practice following the ruling, suggestions arose that the importance of consent and the routine application of these standards *“does not seem to be fully understood or to have filtered into practice in relation to wellbeing concerns”*, suggestive of a potential failure to adhere to the DPA, The European Convention of Human Rights, and the UNCRC (McEwan, 2018, 5).

Further evidence of a lack of understanding or appreciation in practice for the procedural, rights-based system is provided below.

As noted in chapter 3, SCRA represent the gate keeping authority to the Children’s Hearing System. EEI, and the wider WSA, operates alongside the CHS and it is therefore reasonable that this theme has arisen as a core category. In 13.6% of all

⁴⁷ The Supreme Court Judgement resulted in the postponement of the full implementation of Parts 4, 5, and 18 (section 96) (i.e. Provision of Named Persons, Child’s Plan & Assessment of Wellbeing) of the [Children and Young People \(Scotland\) Act 2014 \(CYP SA 14\)](#), requesting further clarity on how CYP SA 2014 relates to Article 8 of the European Convention on Human Rights (HRA) which protects children and families from unjustified interference by the state and the Data Protection Act (DPA) - when consent should be sought and when people should be told that information is being shared. The [Supreme Court](#) ruling does not contest existing EEI schemes or non-statutory Named Person Services (NPS), such as those under current study in this thesis assuming they adhere to existing information sharing legislation as noted above.

referrals to EEI the decision was made to refer on to either: SCRA for consideration of referral to the CHS for compulsory measures; or the Procurator Fiscal which represents part of the wider Criminal Justice System. Many of the 13.6% of referrals will have been jointly reported to SCRA and PF, in accordance with best practice. Forty percent of all young people referred to EEI were known to social work, either on a voluntary or statutory basis. It can be expected that some of these young people will be involved in the CHS also⁴⁸.

Prior to the application of the WSA, the majority of children who came into contact with the law were dealt with through the Children's Hearing System (CHS). The CHS follows a welfare based approach to young people both involved in offending based on the assumption they are both troubled and troublesome: the child's welfare is paramount, albeit permitted "*for the purpose of protecting members of the public from serious harm (whether physical or not)*"⁴⁹; and their participation is central (Cleland & Sutherland, 2009). While the application of this rights-based approach to dealing with children and young people who offend can be scrutinised, the principles and fundamental system is widely praised (ibid).

EEI was often discussed as a direct alternative to a referral to the CHS and was characterised as a more informal approach and therefore more beneficial to young people as it was the system which takes a holistic and child-centred approach to youth and their offending behaviour. The procedural nature of SCRA was adversarial to positive outcomes for young people. Additionally, the high level of decisions to take no further actions within SCRA was viewed negatively and as failing to address the needs of young people involved in offending. Subsequently, SCRA was now viewed as exclusively dealing with more serious offending behaviour, which is not always the case, and this could have a stigmatising impact on young people referred.

⁴⁸ See Appendix 12.7 for full range of Descriptive Statistic variable frequencies.

⁴⁹ Children's Hearings (Scotland) Act 2011

“[EEI] sees the young person rather than just the offence...It keeps a young people out of a system where they don’t need to be... so for me the idea of this process is to treat these young people with a much more empathic approach rather than a procedural one.” P4

“I think it gives them an opportunity to stop and think...whereas before they would have been going through a more legal system...instead they can buy into that support informally”. P8

“[when referrals were going to SCRA] young people were committing offences in the community and getting no support. In my opinion EEI is a support mechanism for young people and their families”. P17

This chapter has shown that while EEI proposes to be child-centred it may fail to fully acknowledge children’s rights and due process. Alternatively, the CHS and the Kilbrandon ethos has always been to serve the best interest of the child, and promoting the welfare of the child in a lay tribunal system, in practice this too is open to scrutiny. While it is unlikely that either system is one or all, framing the systems as fundamentally opposed in their approach to dealing with young people who offend could further reinforce the negative impact contact with that system may have on young people and does little to promote truly rights-based approaches and systems for young people involved in offending.

Misinterpretations of the role and legality around each system were clear. For example, one location Chair provided training to local children’s panel members to the following effect:

“what we were really trying to drive home to them was not just about the process but really make them aware that if they have a young person in front of them on offence grounds that there has been potentially quite a bit of work done before they are there.”

The thresholds and criteria for inclusion and intervention are fundamentally different in both systems. A clear example, frequently observed in Location A, arose due to the

'value' of an offence. High cost damages through vandalisms or fire-raising would be referred to SCRA due to the monetary value, regardless of the circumstances of the young person. As earlier noted in this section, specific crimes that come under the Lord Advocates Guidelines are suggested to be inappropriate for discussion at EEI and therefore remitted to SCRA. Similarly, internal thresholds and other micro decision making criteria can affect the decision of where to send referrals. For example, in one observation, Police were concerned that compulsory measures were required, as the case was 'ticking all the boxes' for meeting the grounds of referral of out with parental control. However, other agencies thought it was unlikely that SCRA would take any action with the current level of evidence and therefore the decision of the group was not to send to SCRA.

This may suggest that the intervention of the WSA has led to misinterpretations or as signalling a changing role for SCRA and CHS in dealing with young people who offend. The way each system is conceptualised is important as it may influence its effective functioning and the subsequent response to the children and young people who come under its care.

The final example of a potential misinterpretation of the rights-based agenda is the negative perceptions towards 'no comment' interviews.

"I mean we had one young person and he was doing, 'no comment, no comment' and you are thinking, a) what is this young person's life been like and b) what's he being taught by his family. You are thinking their attitude towards the EEI process, towards school and any other authority figure is raising a concern." P4

"Often there is a tactful no comment. With the changes now all young people get a solicitor and they advise they no comment but it's frustrating because it doesn't help them and its wholly down to their legal rep. before that, when they were charged at home in front of parents say you would get a better flavour for the young person but you don't get that now. It's a shame because it can escalate things that wouldn't have needed escalated." P17

No comment interviews were viewed with suspicion and contempt by decision makers at EEI. The Carloway Review (2010) made recommendations in relation to child suspects and their right to legal representation which when enacted in the Criminal Justice (Scotland) Act 2016 may have led to changes in practice and potentially an increase in no comment interviews following legal instruction. The potential for adversarial views towards rights-based practice is an area which needs more consideration to ensure truly collaborative and successful intervention with children and families involved in conflict with the law. As the following quote signifies, the compromise and tension inherent in the system is the need and importance of including young people in decisions made about them without creating a formal system, which is detrimental to their development and desistance.

“I suppose the thing is about finding that balance, because the whole thing about EEI is not making it too formalised... not making them too involved but at the same time making them feel it’s something which has no relevance to them whatsoever”. P4

7.5 Conclusion

The findings of this chapter show the potential for EEI to lead to net-widening, up-tariffing and blurring of boundaries which are detrimental to the outcomes of young people involved in offending in Scotland, particularly those already vulnerable and marginalised, and the wider Scottish youth justice system.

Cohen’s (1985) central argument contends that despite the apparent benevolence of diversion agendas the reality is the strengthening and expansion of social control, which permeates new areas of social life through complex and interconnected processes of system expansion. Taken together, greater numbers of young people are subject to contact with more intensive forms of justice intervention than would previously have been the case. For this to be accepted, the system blurs the boundaries in order for intervention to be deemed an acceptable and appropriate response.

While the benevolent intent on the part of professionals is acknowledged in chapter 6, the findings and analysis presented in this chapter highlights the potential for EEI to lead to net-widening. Greater numbers of young people's behaviour is subject to scrutiny under wider considerations of wellbeing which have the potential to, in combination with the multiagency context, lead to a greater use of intervention. Once known to the system all manner of behaviours and the initial contact itself become detrimental to future decision making. Rather than addressing needs and risk, as originally intended, the system creates and conflates risk otherwise known as up-tariffing. Consideration is also shown to the potential for 'bifurcation' (Bottoms, 1977) where the system responds differently to groups of young people based on wider characteristics to:

"differentiate those who need help from those who deserve punishment; serious offenders from non-serious offenders; and persistent offenders from those whose behaviour can be 'nipped in the bud" (Pickford and Dugmore, 2012, p39).

This has the potential for the negative impact to be most detrimental to those who are most in need. Highlighting concerns out with the justice realm while intervening from a justice response compounds multiple disadvantages as welfare is policed within a justice context.

Underpinning the net-widening and up-tariffing concerns is the lack of proportionality within the system through a failure to fully acknowledge rights and due process as foundational concepts due to their juxtaposition with the dominant benevolent imperative of the system: wellbeing.

While this chapter has presented findings which suggest that Cohen's concerns around the negative unintended consequences of system expansion rather than system diversion may be realised, this is not to say that the approach or practice is undesirable in its totality. In the absence of outcomes data there can be very little conclusive evidence to show that EEI is more or less harmful for young people than any other system response. The holistic approach to dealing with young people

involved in offending is not necessarily the wrong one: there were numerous examples of arguably timely, proportionate and effective decisions being made. This chapter also provides evidence of practitioners themselves being critical and questioning of the potential negative unintended consequences. Rather than provide any definitive answers, this chapter hopes to shed light on the potential for practice which could be harmful to young people's outcomes and the wider youth justice system to promote further critical reflection. Chapter 8 will consider steps to minimise the potential for such consequences to arise and build on existing good practice in considering a more just approach to young people involved in offending in Scotland.

8 WHAT IS TO BE DONE? HOW CAN EEI WORK BETTER IN PRACTICE

This thesis examines how and why decisions are made in a Scottish youth justice context, Early and Effective Intervention (EEI). The findings present EEI as a practice which straddles the inherent tensions of youth justice centring on the ability to make decisions and intervene in the least harmful and intrusive manner in cases where young people are involved in offending, when we know very little about the potential outcome of this intervention. In the case of EEI, the tensions arise through the conflation of offending as an indicator of wellbeing in a varied multiagency practice landscape. The thesis has sought to explore the factors and rationales that inform EEI practitioners in order to understand the reality of the decision making practice of EEI. This allows a critical view to be developed as to the potential impact of this practice on outcomes for young people and the wider youth justice system. This critical stance is viewed by the researcher as integral in a system which is largely devoid of both conceptual and practical scrutiny thus far. It is not enough to simply provide a critique, and through the research, considerations of potential advances of practice have been put forward in both the findings and analysis.

8.1 Introduction

This chapter presents the findings of the research in relation to how EEI could be improved at the practice, system and conceptual level. This chapter builds on the findings of potential inconsistencies which lead to negative unintended consequences for young people and the youth justice system, as presented in chapters 6 and 7. In providing the findings and analysis as to potential ways forward, this chapter also provides a rebuttal to potential misinterpretations of the findings that suggest the system should be scrapped or is redundant.

The findings and analysis presented in chapter 6 suggest that EEI is intended to be a holistic decision making process which offers proportionate intervention as an alternative to formal justice measures, as per the previous system. The reality of EEI is one of a varied and complex set of rationales and practice.

Chapter 7 highlights the potential for complex decision making rationales to have the potential to net-widen the youth justice system to more young people and up-tariff those who are deemed most vulnerable. This is compounded by multiagency working based on wellbeing and lack of acknowledgement to rights, a central contention within the system.

Rather than having the *“depressing task of advising and informing well-meaning reformers that they are doing ‘no good’”* (McMahon, 1990, 125), as is often the case with adopting critical criminological pursuits, the findings of this research offer the opportunity to be sensitive to alternative strategies for more progressive youth justice policy. Cohen (1985, 241) critiqued the critical approach as only exposing the bleak side of literature to suggest *“analytic despair”* and *“adversarial nihilism”*:

“Critical scholarship has very well exposed the problems of this critical agenda- but the very effectiveness of this demystification job is a little embarrassing. You have to distance yourself from those original ideas and reforms, dismiss your enthusiastic support for them as matters of false consciousness or perhaps a product of over-enthusiastic youthful exuberance” (ibid, 366).

In addressing the research aim examining how and why EEI was practiced in the Scottish youth justice context and in following a modified grounded theory methodology, both the researcher and participants were able to distance themselves from the constraints of any overarching theoretical or political influences. This allowed critical reflection on current practice and consideration of potential improvements. As shown in this chapter, this created a space for practice, systems, and conceptual critiques to arise and for similar potential solutions to emerge. The chapter will differentiate between the findings which have emerged directly from the data through the perspectives of the participants; and the wider conceptual analysis which has been developed by the researcher as influenced by the range of findings throughout.

Firstly, the chapter will present the frustrations apparent in EEI practice and systems and the potential avenues for improvement as expressed by practitioners. Individual frustrations and reflections on practice have been presented throughout chapters 6 and 7, however this section considers those which could be considered at a strategic level as fundamental to the development of practice overall. Secondly, the chapter will consider the potential for development of EEI practice through a reconceptualization of the underpinning values using alternative conceptual frameworks, building on tensions discussed in chapters 6 and 7.

8.2 Practice

There are a number of processes and practice improvement recommendations throughout the research which would suggest changes at an individual, agency, and system level. This section analyses the reinforced and interconnected nature of the potential difficulties with the principles, practice, and outcomes of the EEI process. It will argue that EEI practice has negatively affected interconnected issues of a lack of: strategic leadership; practice scrutiny; and a robust evidence base.

8.2.1 Processes and practice review

As discussed in chapter 3 EEI practice is devolved to Local Authority areas with little in the way of prescriptive national centralised guidance. National guidance which is

available to practitioners, namely the Core Elements (2015), has been purposefully created to outline minimum practice standards to allow practice to adapt to local variations. As developed throughout chapters 6 and 7 this has led to inconsistencies in practice which may lead to negative unintended consequences, particularly for young people involved in offending. The analysis has shown that while practitioners involved in EEI have embraced the WSA ethos, including partnership working and holistic decision making in terms of acknowledging the needs of the child, there are significant areas of practice which would benefit from reflection and clarification against the desired aims.

Processes were identified as being counterintuitive to the principle aims of EEI – child centred, timely, proportionate, and effective. Processes and guidelines from agencies or systems out with EEI were seen to clash or complicate EEI practice: including Lord Advocates Guidelines on jointly reported cases; Police processes and specifically, Police Recorded Warnings.

“I think a real eye opener was when discussing kids who are on a CSO... I think there is a niche where they could benefit from an intervention, to complement their CSO, [if they were eligible for EEI, which in this LA they are not]”. P1

“The changes in the law in terms of what’s eligible for EEI and what is not can be a bit of a frustration”. P1

“I don’t necessarily agree with the Lord Advocates Guidelines for WS, I think they are unrealistic and I don’t see the purpose of having the WSA when all we can discuss at EEI are offences not generally committed by young people in our area. I don’t think it’s in the young person’s best interest and an area that needs to be looked at”. P17

Lord Advocate’s Guidelines suggest which offences are eligible for EEI and different behaviours and charges apply depending on age. During the period of data collection, it was acknowledged by Police representatives in Location C that recent changes in the guidelines were severely restricting the number of referrals for the 16 and 17 year old population. These crimes would then be sent to the Procurator Fiscal (PF) in the

hope of receiving a Diversion from Prosecution. This process takes significantly longer to deal with and subsequently the number of Diversions from Prosecution are variable (Murray et al, 2015).

“I know there have been conversations in terms of what EEI should cover in terms of ages and set criteria, for me one of the things I would value is being more flexible in terms of seeing that young person rather than the rules.” P4

“I don’t think we’re necessarily hitting all the people we could do...I think there could be work done with police in terms of some of the offences.” P13

Additionally, Police Scotland extended the adult Recorded Police Warning scheme to include 16 and 17 year olds who had committed a non-violent offence. While this has the opportunity to mitigate some of the issues which discourage 16 and 17 year olds from being referred to EEI, there was a concern from participants that recorded warnings fail to recognise, share and act on potential wellbeing concerns in the lives of 16 and 17 year olds as they are issued ‘on the spot’. Effectively, Recorded Police Warning schemes were seen to be counter-productive to addressing the needs of young people through the EEI system.

Despite practice guidance stating this does not have to be the case⁵⁰, some areas do not discuss young people who are involved with the Children’s Hearing System (CHS). Location A did not discuss young people at EEI who were on a Compulsory Supervision Order (CSO) within the CHS. Firstly, this could be denying young people the opportunity to receive timely, proportionate, and effective support for their offending behaviour due to their involvement in a system which is designed to support and protect their welfare. Respondents were concerned that low level offending was not always acknowledged and addressed by allocated workers of

⁵⁰ See core elements for guidance on Police SCRA checks for eligibility to refer to EEI <http://www.gov.scot/Publications/2015/03/6818>

young people already involved with social work on a statutory basis, due to their wider needs.

Internal frustrations were also evident regarding agency attendance, resources, and general practice. Often the practice frustrations could be linked back to a lack of clarity around the fundamental aim and rationale of what EEI was trying to achieve, which agencies are required in relation to that, and what interagency thresholds should be.

“I would love to have more agencies there that could bring more resources to the table, who wouldn’t be working directly with the offending aspect of it but around those other things we’ve been talking about...strength based approaches” P4

“I think there’s also a discussion to be had about thresholds regarding the partners...it’s about thresholds and decision making and what people understanding is of those thresholds and engaging with them a bit more...I would be interested to know more about the young people who have been assessed as not being EEI eligible...” P1

“One of my biggest bug bears...is [Child Mental Health Service]. They could bring an awful lot to the table but they don’t and I think that’s a big missing link...I think as well as being stretched its about getting the right person round the table”. P13

Engagement and thresholds were raised as an issue of contention between agencies as agencies took into consideration capacity to engage and ability to engage with work which requires a particular level of understanding. Other agencies viewed engagement as a condition for receiving a ‘soft option’ response to behaviour.

Practice frustrations which were highlighted were evident at a national and local level and to varying degrees were seen to require action at both a national and local level. Practice frustrations can be attributed to a range of issues including: a lack of national policy direction; and variations in local multiagency EEI arrangements.

8.2.2 Strategic Leadership

A lack of strategic leadership of EEI at a local level was noted as impacting practice in various ways. Issues regarding partnership working and gaps in attendance, as well as EEI's place within the wider youth justice landscape could benefit from strategic leadership on EEI practice. Respondents identified that there was a need and potential role for a strategic lead on EEI within localities to promote and improve practice.

"I do think we need to do a bit more work on awareness in relation to EEI, it's not something that's taught at the college for [police] probationers coming in and they don't really know what it's about and what happens at the meeting, so yeah a bit more awareness in relation to that." P2

Under current arrangements, following the withdrawal of government funding for Whole System Approach leads in Local Authorities, the responsibility of overseeing, promoting, and improving practice appeared to be unclear between individuals and agencies and could become subject to interagency or internal power and politics.

Individuals who attended regularly often acted as EEI representatives within their own agency: gathering information to share at EEI and providing assurances on potential services available. There was, however, evidence of a lack of clear leadership at the strategic EEI multi-agency group level, which was seen to impact on EEI's successful implementation and operation. The identity of the Chair was less obvious in Location A in comparison to Location B and C where the Chair took control of internal issues within the group such as administration and registering attendance, actions which made them more distinguishable as Chair. In Location C, a concern was raised that the role of the Chair residing within the Third Sector may be impacting on the lack of commitment from statutory agencies, highlighting potential limits to the authority of the leadership role when it falls out with statutory agency remit. Similarly, there was a concern that it was unclear which individual or agencies had authority to consider and implement strategic decisions or liaise with agencies outside the EEI process on behalf of the group.

“They were saying who would be the go to person who oversees youth justice in [Location C] and no one knew or they didn’t exist...” P19

“It’s not obvious who is in charge of the group; it’s not obvious who makes decisions about attendance. Which is a strength and a weakness because it means there’s no real hierarchy, but when it comes to important decision making that becomes difficult.” P14

The implications of unclear local leadership will undoubtedly impact on national efforts to minimise inconsistencies or improve practice. This is not to suggest that within locations practitioners did not take their role seriously or commit to it fully. Rather, emboldened by the perceived benevolence of the EEI approach practitioners sought to defend areas of seemingly good practice and were reflective in order to consider potential improvements within their own areas of practice and at EEI as a whole. However, with EEI being additional to many of the practitioner’s workloads and the EEI case load being already very high, the capacity and opportunity to do so was perceived as limited.

8.2.3 Promoting and improving EEI practice through evidence

Strategic leadership was identified as a way to communicate and improve practice locally and nationally; and both within EEI, and to related agencies and systems within the youth justice sphere and beyond.

“We [EEI members] have a responsibility, or I do [Chair] or certainly [agency] do, in engaging more people in these conversations and talking more about Whole Systems Approach and EEI, include it in reports and back it up with research...” P1

Key to doing so, as seen in the above quote, and integral to improving practice but limited by the capacity and leadership issues noted, was the development of the evidence base to extend and improve practice. There is currently limited research on the practice or potential outcomes of EEI practice (Papadodimitraki, 2016). Against a wider backdrop of decreasing youth crime, EEI has been devoid of scrutiny and

generally accepted as the 'right approach' to dealing with children and young people who offend.

The current research, in applying modified grounded theory methodology, was open to all data which emerged from collection as part of the interviews and observations which revealed a wealth of referral intelligence and practice knowledge that goes unrecorded. This may be compounded by the above point, that due to a lack of strategic leadership for EEI it is unclear who should be recording or analysing such intelligence. Similarly, when EEI is not exclusive to the role of an individual there is very little protected time for promoting and reflecting on current practice. The potential for EEI data to be collected to improve practice and challenge current thinking was apparent.

"I firmly believe that the EEI process shouldn't just be about the young people that come before us, that if we can identify trends or issues or be more proactive and feed into a bigger picture and be able to identify a pattern or an issue." P4

"However we're only discussing these young people because they've been charged by the police so I think there are maybe areas in [Location C] where we could be developing earlier intervention before they are getting charged." P17

"When you are just dealing with the log week to week you do get a wee sense of there may be a wee cluster of incidents happening but I think it would be helpful to get that sort of analysis and I suppose that could help us to see if there are any particular trends and have we been identifying appropriate interventions". P18

While the potential for data to highlight trends was acknowledged, there appeared to be a lack of capacity to act or wider discussion about primary prevention to stop young people being charged. This challenges current practice at a more conceptual and theoretical level.

In discussing current practice, practitioners were able to identify areas for improvement across the micro, meso, and macro levels of EEI. The analysis of the findings recommend critical investigation and evaluation of current EEI systems and practices with a view to potentially reevaluating and renewing commitment to original diversion and minimum intervention in light of the findings of this research which suggest the potential for inconsistencies in practice to result in negative unintended consequences for young people and the wider youth justice system.

8.3 Contemplating future possibilities of Youth Justice in Scotland

For those writing from the perspective of social control, influenced by the work of theorists such as Cohen, one concern is the apparent benevolence and lack of scrutiny afforded to 'alternative diversionary' justice systems such as EEI and the general acceptance that the *alternative* is better than what has gone before. Additionally, in the period of increased actuarial sentiments within youth justice there is the potential that, "*if the system is running smoothly, the system is deemed successful, regardless of the effect on those within it*" (Kempf-Leonard & Peterson, 2000, 85). For Phoenix (2016, 136):

"Once spaces are opened up in which to analyse the complexity of the youth penal realm and explain it, the critical imagination can be unlocked and from there new and different ways of dealing with youthful lawbreaking can be imagined and fought for".

In exploring the rationales and factors which influence the decision making of EEI practitioners and their potential influence on outcomes, this research has attempted to create a space to consider new and different ways in which to minimize inconsistencies, negative unintended consequences, and improve practice.

8.3.1 EEI as part of a new youth justice

Chapter 3 established that EEI practice exists within youth justice frameworks which are premised on foundational, and often conflicting, perspectives such as welfare and justice which determine to a greater or lesser extent the policy and practice which is

implemented in our youth justice system (McAllister & Carr, 2012; Muncie, 2009; McAra, 2010; Haines & Case, 2015). While the accuracy of ideal types can be argued, what is known is that changes over time and place occur in combination with shifting ideological and political influences and views regarding wider notions such as 'childhood' (Smith, 2014).

This research has found evidence of the tradeoffs between these positions as played out in practice. There is evidence that decisions are being made at EEI which are to the benefit of young people, based on the reasonable principles of intervening early in criminal behaviour in acknowledgement of it as an issue of wellbeing in the child's whole life. Practitioners often looked past the offence to the circumstances of the young person, including bereavements and additional support needs, which may have influenced the behaviour based on their professional judgements, experiences, and knowledge. It must be noted that while decisions are made with the best of intentions, often supported by policy, they are influenced by the perspective of the professional which includes varying principles, priorities, and power. In creating systems of diversion there is always the potential to net-widen (Cohen, 1985), particularly when actuarial principles such as risk and graded intervention are being used to justify evidence-based and objective decisions (Case & Haines, 2009; Smith, 2014). Unintended consequences such as net-widening and up-tariffing, particularly of those already vulnerable and marginalized were found in this research, and explored in chapter 7. The inherent tensions between frameworks and their limitations on practice have been widely acknowledged, as well as their coexistence and continuity. As well as limit our potential to develop new conceptualisations of youth justice, Smith (2014, 294) notes: "*the common tendencies of the welfare and justice models alike to individualise, problematize, decontextualize and 'other' young people in trouble*". Phoenix (2016) develops this argument to show how contemporary responses to youth justice have been limited by notions of 'governmentality'. The result is evaluation and research being aligned to this overarching theoretical domain which consolidates and attributes current thinking in terms of governmentality; and closes off wider theoretical spaces to consider practice

by seeing the system as one unified entity, under which individual agency and structure is simplified:

“The framework for scholarship and research is such that ‘possibilities’ for the development of theory (and from that, of practice and policy (Hirst, 1979)) have been shut down, are self-limiting and hugely pessimistic” (Phoenix, 2016, 132).

In considering the Scottish case McAra (2017) argues that criminologists can change and shape practice by:

“engaging ‘more fully’ with the dynamics of criminal justice as differentiated and multi-level phenomena, exercised concomitantly as political strategy and institutional performance, and the ways in which the special and temporal manifestations of such governance are experienced by those who become the object of regulation” (2017, 783).

8.3.2 How does EEI move towards a New Youth Justice?

Phoenix (2016) advocates for a ‘Critical Youth Penology’ developed from concepts drawn from the sociology of punishment, youth studies, and critical criminology. This allows analysis of the youth justice system and its practices in terms of, as noted by Smith (2017, 154) the, *“wider social conditions and experiences which frame childhood and youth and also make possible the forms of intervention and sanction to which they are differently exposed”*. Smith (2018) notes a similar line of argument in his earlier studies of diversion (see Smith, 1989; 2005; 2014) and highlights the requirement for such arguments to balance the critical analysis of the structures of control. This should encourage the engagement of those who have influence and who change systems, namely practitioners, and further through meaningful engagement of children and young people. This has been a constant consideration of this research. Further support is presented for increasingly *“principled, theory-informed, participatory, rights-based approaches”* (Smith, 2017, 155), such as The Children First, Offender Second (CFOS) philosophy as developed by Haines & Case (2015). The positive youth justice of the CFOS approach is underpinned by, *“the special treatment*

of children, adherence to children's rights and attendance to socio-structural inequalities" (Haines & Case, 2015, 45). Similarly, Urwin (2018) highlights the need for a more principled approach to practice, stressing the need for a social justice approach to young people involved in offending behaviour.

This section will present analysis of the conceptual developments which are suggested from this research study. Such developments include a greater commitment to rights; a clearer understanding of adversity; and the meaningful inclusion of young people.

The unintended consequences of blurred boundaries were discussed in chapter 7 in relation to the potential for rights-based practice to be overlooked in pursuit of the intended benevolent aims of EEI. There was a lack of clarity around rights-based practice such as due process, consent and information sharing; and a lack of appreciation of the importance of children's legal rights. The failure to consistently address the fundamental legal rights of young people, in terms of consent and information sharing, raise considerable questions for practice. However, assurance of basic legal safeguards is only part of a wider conceptual development.

While due process and proportionality within the judicial sphere ensure legal rights are upheld, this does not ensure a more child friendly approach (Haines & Case, 2015). In adopting the traditional binary approach to youth justice, the emphasis on justice in place of welfare would be espoused due to the criticisms of net-widening potential of a wellbeing focus. Under positive youth justice movements, which this research is aligning itself with, more scrutiny would be applied. The balance between legal rights, or traditional justice is one step but not a single solution, as noted in the following quote:

"I suppose the thing is about finding that balance, because the whole thing about EEI is not making it too formalised... not making them too involved but at the same time not making them feel it's something which has no relevance to them whatsoever". P4

As previously discussed in chapters 6 and 7 there was the potential for net-widening to extend to the most vulnerable and marginalised young people, the usual suspects, and conflated through an overly welfarist approach. In keeping with McAra (2017), there was evidence that despite well intentioned motives the category of young people who come under the control of the system, at the earliest and lowest levels such as EEI, *“rendered the poorest youngsters more vulnerable to intervention...which produces a systematic client group...and that has negative effected on the life chances of the young people involved”* (2017, 784).

Factors of adversity are evident in the lives of the young people whose behaviour is considered criminal. Understanding the multiple levels of trauma and adversity are key when considering the most appropriate way to respond to the young person’s behaviour (CYCJ, 2017). The thesis has shown how taken alone, factors of adversity can lead to repressive welfarism, bifurcation and up-tariffing. This is in keeping with Cohen’s wider theories of the negative unintended consequences of system expansion. The researcher would therefore suggest, in line with a positive youth justice agenda, a renewed commitment to principles of minimum intervention and diversion from system contact.

While the above recommendations are a nuanced recommendation which at first may sound like more welfare and more justice, essentially more of the same, they are underpinned by a desire to progress the conversation on principles. For EEI this requires the meaningful engagement of young people. This is similarly linked to the above extension of rights. For Smith (2006), however, the importance of emphasising a rights-based agenda to working with children and young people does not stop at ensuring principles of proportionality and due process but rather offers a framework for the meaningful engagement of young people.

Practitioners were passionate about EEI and the benefit it can have on young people and when prompted took consideration in proposing improvements, which included the meaningful engagement of young people.

"I think there's a responsibility on us all to be as creative as we can around engaging young people to illicit their views and that might take different guises...but I think if we can evidence that we are being as creative and responsive as we can to allow young people's views to be heard and acted upon." P18

"I would like to hear about other areas experiences of how they involve the young people and their families..." P1

Helm (2010) would similarly argue that for practice and practitioners to genuinely advocate and uphold children's rights there is a required commitment to base all work on direct communication with children and young people.

These recommendations for refreshing the conceptual understanding of current EEI practice are based on the findings of this research in relation to how and why decisions were made in a distinctly Scottish youth justice context. Wider developments, such as prevention as inclusion as promoted by the CFOS model, require further consideration in moving the debate to a wider whole system level. This thesis has shown that such a level of reflection and development is timely.

8.4 Conclusion

The purpose of this chapter was to present the findings which suggest a way forward for EEI practice in Scotland: both in terms of immediate practice recommendations; and broader considerations of conceptual developments.

The chapter begins by considering the interrelated nature of improvements required through levels of EEI bureaucracy which do not currently exist and may be required due to the level of inconsistencies found in practice through this research. Specifically, EEI practice suffers from a lack of strategic leadership, including the scrutiny and oversight that such leadership provides, improving and promoting practice through, for example, robust outcome data.

The frustration with existing frameworks and their limiting nature both in terms of research and practice is prominent in current criminological thinking, particularly in

the youth justice sphere. The research aligns the conceptual analysis of this thesis with such endeavours: taking a nuanced approach to traditional notions of welfare and justice, which could both be refined and redefined in a more complementary approach, under a wider banner of 'inclusion as prevention', with children and young people at the centre.

The analysis of findings provided consideration of the conceptual underpinnings which may be limiting effective EEI practice currently; and preventing the development of EEI as a benevolent and sustainable practice. A frequent criticism of concluding findings with the acceptance that Cohen's (1985) general theory of increased diversion leading to negative unintended consequences does not provide practitioners with any answers as how to see their benevolent intentions realised. Practitioners are critical in developing EEI practice and wider youth justice frameworks and therefore require research evidence, both practical and conceptual, which is critically engaged with their practice and experience.

9 CONCLUSIONS AND RECOMMENDATIONS

“...putting children first in the youth justice system means abandoning the reductionist and disengaging management of risk and practice performance...; replacing this approach with a participation-led model that seeks meaningful engagement with and between children and practitioners, while also working in partnership with policy makers and researchers.” (Haines and Case, 2015, 177)

9.1 Introduction

This research has examined how and why decisions are made in the distinctly Scottish Youth Justice context of Early and Effective Intervention (EEI) in order to address the following research questions:

- What are the governing principles evident in the youth justice in Scotland?
- How does EEI function in practice and what are practitioner’s reflections on how multiagency working functions in the context of EEI?
- What discourses are evident in the decision making of youth justice practitioners and to what extent are they reflected in the wider youth justice landscape?
- What are the implications of this approach to youth justice for:
 - Children and young people involved in offending behaviour aged 8-18;
 - Practitioners, both involved in and affected by Early and Effective Intervention;
 - The wider youth justice landscape.

EEI is a multiagency decision making process which considers offending behaviour by children and young people as a wellbeing concern, taking account of their holistic needs. EEI was developed as an alternative way to deal with offending by children and young people under a new Whole System Approach. Instead of referrals being sent to the formal Children’s Hearing System or dealt with through direct police measures, following critique of the discretionary nature of decision making and

negative impact of system contact found in the Edinburgh Study for Youth Transitions and Crime, the longitudinal study which called for increased diversion and minimum intervention (McAra and McVie, 2007; 2010). While diversion, informed by theories of labelling, has robust theoretical and empirical support, social control theorists such as Cohen (1979; 1985), would question the potential for the benevolent principles to be realised in practice. Rather, they would argue diversion represents an extension of the formal system which extends the negative impact of system contact onto more young people and through processes of boundary blurring ignores due process and rights in pursuit of the overarching aim of supposed diversion.

This thesis utilized a case study approach, carrying out interviews with practitioners involved in EEI decision making and observations of EEI meetings, where referral data were collected, in 3 case study locations in Scotland. By applying a modified grounded theory approach the researcher was able to develop findings which have both practice relevance and theoretical congruence. Combining these methodologies allowed decisions to be made which best suited the complex and varied practice research landscape.

The thesis draws on existing literature regarding youth justice frameworks, their contradictory and complementary nature and their complex influence on policy and practice. As EEI is a uniquely Scottish youth justice approach, the thesis considers the conceptual underpinnings, policy and practice of the Scottish Youth Justice System and presents findings from an initial scoping study which provides a snapshot of EEI practice and processes nationally.

This thesis has made an original contribution to knowledge as it reveals EEI decision making in practice. Providing in depth analysis of how EEI decision making is practised provides the opportunity to consider the values which underpin and influence practice, the potential outcomes of such practice and ways in which practice could be improved. The findings which emerged from researching EEI practice are then analysed by drawing on wider theoretical debates, including youth justice frameworks and theories of social control.

The premise that diversionary endeavours are benevolent, less harmful and genuine alternatives become assumed and accepted narratives, which normalise and coproduce practice which is potentially unethical and harmful. The current context of decreasing crime, sympathetic political consensus, and scarce critical investigation or research either at a national or local level puts this into even sharper focus. The thesis is therefore a timely investigation of current approaches to dealing with children and young people involved in offending which proposes critical and conceptual potential ways forward.

9.2 Summary of Findings

The initial findings as developed using modified grounded theory techniques were presented neutrally in Chapter 5, free from theoretical interpretation. The strength of applying a modified grounded theory approach to research is that research creates robust theory which is grounded in the data: the end result should strongly reflect the experience of participants, increasing the practical relevance of the research. Coding and memoing resulted in the creation of 8 core categories which revealed the complex and interconnected nature of EEI decision making - revealing duality in the stated aims and intentions, and reality of values and decision making: processes of decision making; the inclusion of children and young people; and the systems effect of EEI on existing systems of justice.

Chapter 6 presents the findings on how EEI works in practice. The findings show that practitioners feel they are making judgements based on good evidence which are influenced by a range of conceptual justice rationales including: wellbeing and welfare; restorative justice and responsibility; and that partnership working increases the reliability of decisions. Drawing on wider theoretical debates the thesis shows that policy and practice to some extent inevitably represent competing and complementary discourses simultaneously. These tensions are inherent in the EEI landscape as the notions of wellbeing and justice are consistently at odds.

Multiagency decision making in EEI takes place in this varied landscape, which has little accountability, transparency or management. The findings suggest that rather than being led by principles, decision making is understandably and inevitably based on the professional perspectives of practitioners, which give way to differential power dynamics and wider considerations such as resources and processes, regardless of local practices.

While there was evidence to suggest that within the limited capacity in which they can be reliably made, the benevolent intentions of practitioners may result in some positive decision making and outcomes for young people; variation at the levels of conceptualisation, policy and practice lead to inconsistencies in decision making, with the potential for negative unintended consequences.

Chapter 7 builds on the evidence of how EEI is working in practice to consider the potential issues that this practice raises, both for the practitioners themselves; the outcomes for children and young people referred; and cumulatively the wider youth justice system. While outcome data was not collected as part of this research, and the methodological complexities of such data are acknowledged within the thesis, the application of theoretical concepts such as net-widening, up-tariffing and boundary blurring support the analysis which suggests that EEI, in its current form, may have a negative overall impact.

The potential outcomes of EEI decision making are complex. While professionals working in partnership, combining their professional judgements and perspectives, may create effective early intervention for some – working in this way may lead to negative unintended consequences: net-widening and up-tariffing through the conflation of risk led interventionism, rather than true diversion as an extension of the formal youth justice system. The potential negative outcomes are greatest for those ‘already known’ – those earlier identified by McAra and McVie (2010) as ‘the usual suspects’, whose behaviour is viewed as more problematic and requiring greater intervention, regardless of proportionality. The children and young people

drawn into and retained in the system are predisposed from the most vulnerable and marginalised in Scotland.

The final negative unintended consequences arise through the prioritisation of wellbeing over rights. There was a lack of consideration of the meaningful participation and involvement of young people and their families - due to practical reasons. Due process, information sharing practices and consent all raised concerns about the balance of legal rights against the multiagency imperative to make decisions in a wellbeing context. The balance between rights and wellbeing in the EEI system are contrasted in this thesis, with the 'alternative' CHS – which arguably balances children's legal rights with their welfare concerns more proportionately.

In Chapter 8, the implications of these findings are explored in greater depth. The earlier chapters present the complex and interconnected practice reality of EEI decision making; and the potential negative unintended consequences which may arise despite intended, and potentially experienced, benevolent aims. While the research cannot definitively say whether the EEI system is more or less harmful than alternative endeavours, it does provide an insight into how EEI is working in practice and provides potential ways forward. The findings provide recommendations for the system which would improve practice by providing greater capacity and opportunity to offer internal scrutiny through clearer strategic leadership and outcome data. While there was evidence of reflective practice, and certainly was created through the research process itself, there was limited capacity or clear direction with which to act on intelligence which could develop EEI practice in a timely or efficient way.

Similarly, the conceptual analysis and discussion which arises from these findings suggest that while considerations of improvements are required at a systems and practice level, there is also a need for a conceptual space to be created where the possibilities of moving practice beyond the binary divides of welfare and justice; or diversion and net-widening can be considered. The inherent complexity of these divisions as played out in practice have been shown through this in depth study of EEI decision making practice. Rather than fall into the trap of condemning, and

potentially subsequently proposing an equally harmful conflicting approach, the researcher draws on scholarly approaches which are already proposing alternative conceptualisations which move beyond the constraints of the existing paradigms, including: Children First Offender Second (Haines and Case, 2015); Critical Youth Penology (Phoenix, 2016); and a social justice principled approach to youth justice (Urwin, 2018).

9.3 Limitations

This thesis has produced a comprehensive analysis of decision making in the practice context of EEI, a distinctively Scottish youth justice practice. Chapter 4 outlines the options and decisions which were made, in order to present the rigour of the research design and subsequent findings. However, as is customary in researching social practice, and in particular in acknowledging the complex and diverse landscape of EEI, there are potential limitations which must be acknowledged.

The research employed a case study methodology, undertaking interviews and observations, including the collection of referral data, in three case study locations in Scotland. EEI operates in every local authority in Scotland and therefore the findings developed from these three cases may not be reflective of other EEI practice situations within other locations in Scotland. However, an initial scoping study carried out as part of this research found that there was very little generalisability in EEI practice across Scotland, making the selection of 'typical' cases which could be more generalizable or replicable improbable. The scoping study did however identify two broad models of EEI practice, of which only one model was represented in this data sample, due to an inability to secure access to more local authorities. Future research on EEI should take into consideration the models developed in this research, when selecting cases for fieldwork.

The research highlights the complex and contradictory nature of EEI, where the potential for decision making practice and the potential outcomes may be positive for some and negative for others. The findings cannot say in any definitive terms

whether EEI represents a more effective practice for intervention regarding children and young people involved in offending than alternative options, in terms of the practice itself or the potential outcomes for young people. The potential outcomes, which in the main are unintentionally negative, are merely speculative. However, they draw on robust theoretical concepts and emerge from research which follows a methodologically robust approach. In presenting an examination of current EEI practice, the researcher can acknowledge that variation and complexity exists in EEI practice which creates trade-offs and uncertainties, which have the potential to lead to negative unintended consequences.

9.4 Recommendations for future research and practice

In part because of the limitations of this research and in part informed by the findings, the researcher would suggest the following recommendations:

- Further research in this area is required to further understand and comprehend the potential impacts of EEI decision making, extending the findings of this research to consider implications of decision making at other points in the Scottish Youth justice system.
- The research highlights the practice of EEI has developed largely unscrutinised. The collection of outcome data, consistently and frequently across EEI in Scotland emerged as a research finding which would support the overall scrutiny and improvement of the EEI system.
- Commitment to developing youth justice practice including EEI requires increased resource and capacity. Creation of dedicated EEI roles, like earlier WSA manager positions, is required to support the improvement and sustained progress of EEI under the WSA.
- Finally, the research highlights the inherent tensions within EEI practice at the principle, policy and practice level; and potential implications which have the potential to arise as a result of compromises between diverse perspectives and approaches to working with children and young people involved in

offending. The research highlights the need to consider the development of current youth justice practice such as EEI through new conceptual lens. The limitations of existing frameworks, and the proposals for alternative approaches are now emerging. While it is out with the scope of this research to consider the model of the new youth justice, the research recommends the reconceptualization of youth justice in Scotland is required on the part of practitioners, researchers and policy makers.

- As noted in the thesis the lack of involvement of children, young people and their families was noted as a significant gap in the child-centred approach to decision making. Their limited involvement additionally restricted their capacity for meaningful engagement in this research. The researchers' final recommendation for both practice and conceptual development is the meaningful engagement of children and young people, including acknowledgement of their full legal rights, regarding decision making in the Scottish Youth Justice system, as an essential principle in any system involving children and young people which claims to be child centred.

The original contribution of this research is through both the scoping study and the main fieldwork; we now have a better understanding of how EEI operates in practice in youth justice in Scotland. It is complex, varied and inherently contradictory. Yet the intentions of practitioners and their belief is that the approach is benevolent, with the potential to make improvements in the lives of children and young people who become involved in low-level antisocial and offending behaviour. This research suggests that while this may be the case, there is also evidence to suggest that at a system level there is the potential for the system to create negative unintended consequences which result in more intervention, often disproportionate to the risk of future offending, which can have a negative influence on young people already facing adversity, who are adversely effected by their contact with our systems- despite our best intentions. EEI was not created with the intention of intervening and retaining more young people in a formal youth justice system, however this research has evidence to suggest that even with little bureaucracy, national outcomes or

guidance EEI represents an extension of the formal youth justice system which falls prey to issues of power, risk and uncertainty. The research proposes that the benevolent intentions on the part of practitioners and the wider system can be realised through further reflection and scrutiny of the system at current, by asking where our best intentions fall short, as in EEI, why this is the case and what is required to create a youth diversionary system, which is truly child-centred. This requires reflection and scrutiny at all levels of the system, and should involve a range of stakeholders, including children and young people.

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APPENDICES

Appendix A- Interview Schedule

•How do practitioners perceive partnership decision making and its impact on their professional practice?

Can you describe your role and the organisation you work for? How long have you been a...What was your previous experience?

How long have you been involved in multiagency decision making forum?

Do you work directly with young people who offend? If yes, in what capacity and how in relation to those referred via EEI?

Can you describe the multiagency decision making forum you are involved in? what's the remit of the group?

What are the underlying values of the group about young people who offend?

Who is involved in EEI, at what stage and to what extent?

What is the benefit of having a range of agencies involved?

Do you think there are any other agencies/ stakeholders/ groups that should be involved or any existing members that are not appropriate?

Can you describe how the group comes to a decision?

What information/ concerns do you base your decisions on?

How do you balance the welfare/ justice concerns in these cases?

Are all the partners equal in the decision making process?

Who is accountable for the decisions made?

Do you feel or have you seen the different professions power/ status/ culture impact on how the decision is made or what the decision is?

Are there any improvements you would like to see in the decision making process?

Do they decisions made at EEI resonate with the wider organisation and professionals who in other stages of the case (ie intervention, referral). Are they happy to implement the decision of the group?

Would you agree that those involved have different professional cultures? Could you describe your own professional culture? What is the culture of the group?

Since working in partnership through EEI has your practice, understanding or approach to working with young people who offend changed?

What is it like working in a group with such varied backgrounds? What are the challenges?

What are the benefits?

When working together is there different understanding of risk and how do you make decisions based on these?

Overall, has it been a positive experience making decisions in this way? Examples?

•To what extent is decision making affected by particular characteristics of a case?

Do you think there are any crimes/ circumstances which divide the decision between partners?

•To what extent does partnership decision making increase the likelihood of net widening or criminalisation of young people?

What is the aim of the group? In making decisions in partnership what are you trying to achieve?

What do you feel is the benefit of this case being discussed at this process rather than the reporter?

Has the introduction of EEI increased the amount of intervention in young people's lives? Is this a good or bad thing?

What is your perception of the proportion of young people referred to EEI that continue to offend and why do you think this is?

Who is accountable for the decisions made?

Do you think it is better to make decisions about low level offending in multiagency groups?

What is the advantage of having processes before referrals are sent to the reporter, to you the worker and to the young person?

Is it necessary for the group to discuss all young people who offend?

•How do young people involved in offending understand multiagency decision making?

Have you ever had feedback from young person about the multiagency decision making process?

Do you have an understanding of how young people might feel about their information being shared in this forum?

Have you ever been comprised by the information sharing within the group and your working relationship with a young person?

To what extent are young people involved in the decisions made at EEI?

Is there a need for young people to be involved more directly with the decisions made at EEI? If yes, how should this be done, if no, why not?

•How can knowledge exchange and practice development be effectively supported in a multiagency context

What are the benefits of making decisions in partnership?

As policy develops and changes how can they benefits be maintained?

Do you feel you have a better understanding of other agencies after working in partnership?

Can you think of anything which would help promote your understanding of other agencies?

How does partnership decision making sit alongside existing systems? How can it do so positively?

What would support multiagency decision making practice development?

Should unified core training be provided for all practitioners across agencies working with young people involved in offending?

There is considerable variation in the processes used for multiagency decision making, does there need to be a more standardised approach?

Are there concerns around sharing information? Where do they stem from and what can be done to minimise concerns?

Appendix B- Observation Schedule

Meeting observation template

Local Authority No of observation Agency Attendance-

1. Issues: What issues are discussed?
2. Aspirations: What are people's aspirations, wants & expectations (explicit /implicit - note our assumptions)
3. Agreement: What are the areas of agreement?
4. Disagreement: What are the areas of disagreement/tension?
5. Working well: What are they positive about / what is working well?
6. Challenges: What are the challenges and blockages?
7. Process: How are issues being negotiated and discussed? any differences in the language/ideology used/referred to
8. Power: What are the power dynamics in the room? Who appears to have the decision making power? Whose voice does not appear to be heard? / who is not participating?
9. Other observations:

Participant Information Sheet for EEI Professionals

Name of department: Law School

Title of the study: The experiences of those involved in partnership decision making

Introduction

My name is Fern Gillon and I am a post-graduate student from the University of Strathclyde. My PhD research will examine how those involved in EEI experience working in partnership and perceive its impact on their own practice, the young people they work with and the wider youth justice system.

What is the purpose of this investigation?

This research aims to explore the experience of those involved in and affected by partnership decision making. The study is not only timely but hopes to fill a significant gap in policy, practice and research.

Why have you been invited to take part?

You have been asked to take part in this research project as an individual who regularly attends and represents their profession at a multiagency Early Intervention meeting. The research will take place during 2017.

Do you have to take part?

You do not have to take part. You are being invited to take part in an interview to express your professional opinion on partnership decision making and its impact on your own practices, the outcomes of young people who offend as well as the wider youth justice system. Participation is voluntary and you can withdraw at any time. Withdrawing participation will not affect you in any way. If requested, your interview transcript can be shared with you. This option is available for a month following the interview. Thereafter information cannot be withdrawn from the transcription, and any anonymised or published information.

What will you do in the project?

This research will take the form of an informal interview and it should last approx. one hour. There will be no immediate benefit to you, but your participation will help enhance future knowledge and understanding of multiagency working in an early intervention context. There are no risks to you taking part.

What happens to the information in the project?

The information collected will remain confidential. Any information you give will be referenced by a unique code and will not be identifiable to you. The interview will be digitally recorded with your permission and the recordings will be kept securely within a

Consent Form for EEI Professionals

Name of department: Law School

Title of the study: The experiences of those involved in partnership decision making

I confirm that I have read and understood the information sheet for the above project and the researcher has answered any queries to my satisfaction.

I understand that my participation is voluntary and that I am free to withdraw from the project at any time, without having to give a reason and without any consequences.

I understand that I can withdraw my data from the study for a month following the interview.

I understand that any information recorded in the investigation will remain confidential and no information that identifies me will be made publicly available.

I consent to being a participant in the project Yes No

I consent to being audio recorded as part of the project Yes No

(PRINT NAME)	
Signature of Participant:	Date:

Participant Information Sheet for Multiagency meeting Observations

Name of department: Law School

Title of the study: The experiences of those involved in or affected by partnership decision making

Introduction

My name is Fern Gillon and I am a post-graduate student from the University of Strathclyde. My PhD research will examine how those involved in partnership working, as well as those affected by it, experience working in partnership and perceive its impact, on their own practice, the young people they work with and the wider youth justice system.

What is the purpose of this investigation?

This research aims to explore the experience of those involved in and affected by partnership decision making. The study is not only timely but hopes to fill a significant gap in policy, practice and research.

Why have you been invited to take part?

You have been asked to take part in this research project as an individual who regularly attends and represents their profession at the multiagency Early Intervention meeting. The research will take place during 2016.

Do you have to take part?

You do not have to take part. You are being asked to provide permission for your input into a multiagency meeting to be recorded. Participation is voluntary and you can withdraw at any time. Withdrawing participation will not affect you in any way. Participants who are recorded during a group meeting will be unable to withdraw their statements from the transcript and any subsequent use of the transcripts. However, names, locations and all other sensitive information will be anonymised during the transcription process.

What will you do in the project?

This research will involve analysing recordings of multiagency meetings to understand multiagency decision making processes. There will be no immediate benefit to you, but your participation will help enhance future knowledge and understanding of partnership working in an early intervention context. There are no risks to you taking part.

What happens to the information in the project?

The information collected will be kept confidential, and no one outside the research team will have access to the recordings. Recordings will be transcribed and all identifiable details about the young people discussed will be referenced by a unique code and will not be identifiable to the young person or the multiagency group. The recordings and all transcriptions will be kept securely within a password protected file and destroyed after 5 years. All electronic data will be encrypted in accordance with University of Strathclyde policy.

The research will be submitted in the form of a dissertation to the University. For the purpose of sharing learning to improve practice and policy the findings of the research may be shared with relevant parties through blogs, presentations etc. Distribution of any findings will uphold the same confidentiality and anonymity as previously stated.

The University of Strathclyde is registered with the Information Commissioner's Office who implements the Data Protection Act 1998. All personal data on participants will be processed in accordance with the provisions of the Data Protection Act 1998.

Thank you for reading this information – please ask any questions if you are unsure about what is written here.

What happens next?

After reading this information if you are happy to be involved in the project, you will be asked to sign a consent form to confirm this.

If you do not want to be involved in the project I would like to thank you for your time.

A four page summary of the main findings and conclusions will be developed after the investigation is complete. All interested parties will be notified of dissemination. This investigation was granted ethical approval by the University of Strathclyde Ethics Committee.

If you have any questions/concerns, during or after the investigation, or wish to contact an independent person to whom any questions may be directed or further information may be sought from, please contact:

Consent Form for Multiagency meeting Observations

Name of department: Law School

Title of the study: The experiences of those involved in or affected by partnership decision making

I confirm that I have read and understood the information sheet for the above project and the researcher has answered any queries to my satisfaction.

I understand that my participation is voluntary and that I am free to withdraw from the project at any time, without having to give a reason and without any consequences.

I understand that any information recorded in the investigation will remain confidential and no information that identifies me will be made publicly available.

I consent to being a participant in the project

I consent to being audio recorded as part of the project

Yes

No

(PRINT NAME)	
Signature of Participant:	Date:

Appendix E - Information sheet, Survey and information flyer for young people's participation

What is your age?

Which area do you live in? i.e. Edinburgh, Glasgow, Fife...

What is your gender?

- Female
- Male

Do you have an allocated Social Worker?

- Yes
- No
- Don't Know

Are you part of the Children's Hearing System ?

- Yes
- No
- Don't know

If you are taking part in this study then you have recently been informed that a decision has been made in relation to your offending behaviour. You will have been sent a letter from the Police as to the outcome. This decision was made by a group of professionals from different agencies.

Do you know which actions brought you to the attention of this group?

- A recent offence I committed
- Concerns about my wellbeing
- Don't know

If appropriate, what kind of offence were you alleged to have committed? You can choose more than one option.

- Assault
- Breach of the Peace
- Offensive Weapons
- Alcohol
- Drugs
- Vandalism
- Theft
- Multiple offences

Driving offences

Don't know

Other (please specify)

A group of professionals meet regularly to discuss young people who have been involved in offending behaviour. Together they decide how that young person should be dealt with from a range of options. They share the circumstances of the offence and any other relevant information they have about you. They may ask your teacher or social worker to provide information about you, your behaviour and any concerns they have about you.

When you were charged with the offence were you told that a group of professionals would meet to decide how your behaviour should be dealt with?

Yes

No

Don't know

If yes, who told you? i.e. Police officer, Social worker, Parents

As explained earlier, a group of professionals met and made a decision about your offending after sharing information about you. How do you feel about this?

I think it's fair

I don't mind

I don't know

I don't like this

I don't think this is fair

Please explain your answer:

If decisions are to be made in groups, which agencies do you think should be involved in making these decisions? You can tick more than one option.

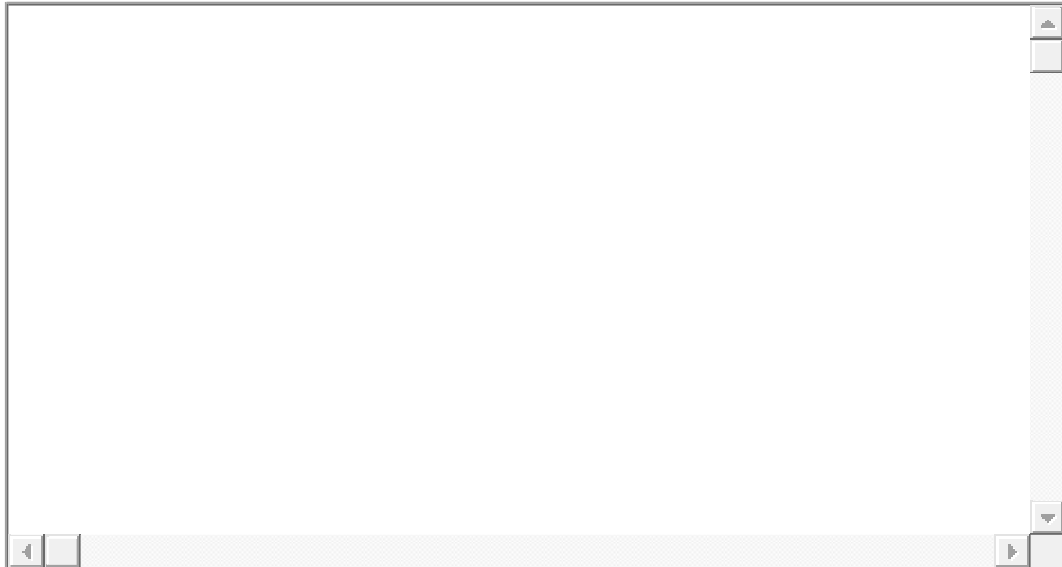
- Police
- Social Work
- Health
- Only professionals who know me
- Me
- My family
- Third Sector (ie Sacro/ Barnardos/ Action for Children)
- Housing
- Antisocial Behaviour Teams
- The Children's Reporter
- Members of my local community

Other (please specify)

If you could, would you like to provide your views or opinions to the group before they make a decision about you?

- Yes
- No
- Don't know

If yes, how would you like to do this? (In person/ via someone you know/ in writing)
And what would you like to tell them?



What was the outcome of the recent multiagency meeting about you?

- No Further Action
- Police Warning
- Police Restorative Justice Warning
- Referred to SCRA or Procurator Fiscal
- Referred to an agency

If referred to an agency, which one?

Have you been referred to this group before for offending behaviour?

- Yes
- No
- Don't know

It may be beneficial to contact you later to discuss in more detail some of the issues raised in this survey. Would you be happy to be contacted to talk again about these issues?

- Yes
- No

If yes, please provide Name, telephone number or email address.

Participant Information Sheet for Young People involved in Early Intervention Projects.

Name of department: Law School

Title of the study: Diverting young people from crime: The role of multiagency early intervention projects

Introduction

My name is Fern and I am a student at Strathclyde University. I am doing research on the way professionals make decisions about young people and I am particularly interested in your views and experiences. I am going to give you some more information about the study and ask you to be part of this research. If there is anything you do not understand, please ask me.

What is the purpose of this investigation and why are you being asked to take part?

You are being asked to take part in this research because you were discussed at a multiagency meeting recently due to your offending behaviour. I am interested to know how you feeling about this.

Do you have to take part?

You do not have to take part. I am asking you to share with me some personal information but if you feel uncomfortable talking about anything, you do not have to answer the question. You can also stop the survey at any stage. It is up to you to decide if you want to take part. There will be no negative consequences to not taking part and if you do take part it will not affect your involvement in the youth justice system.

What will you do in the project?

To find out about your experiences and opinions you will be asked a number of questions, and it should last approx. 20 mins.

It may also be helpful for me to contact you again later in the research project. This would only happen if you agree to be contacted.

There will be no benefit to taking part but your experience will help shape our understanding of what interventions are like for young people.

What happens to the information in the project?

All of the information you provide at any stage will be confidential, except if you indicate that you or others are in danger of harming / being harmed. All personal details will be changed to protect your identity. The survey will be kept securely within a passcode file and destroyed after 5 years.

The research will be submitted to the University. For the purpose of sharing learning to improve practice and policy the findings of the research may be shared with relevant parties through blogs, presentations and a book. Distribution of any findings will uphold the same confidentiality and anonymity as previously stated.

The University of Strathclyde is registered with the Information Commissioner's Office who implements the Data Protection Act 1998. All personal data on participants will be processed in accordance with the provisions of the Data Protection Act 1998.

Thank you for reading this information – please ask any questions if you are unsure about what is written here.

What happens next?

After reading this information if you are happy to take part in the project please sign the consent form attached.

If you do not want to be involved in the project I would like to thank you for your time.

**Researcher contact details:
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This investigation was granted ethical approval by the University of Strathclyde Ethics Committee. If you have any questions/concerns, during or after the investigation, or wish to contact an independent person to whom any questions may be directed or further information may be sought from, please contact:

Secretary to the University Ethics Committee
Research & Knowledge Exchange Services
University of Strathclyde
Graham Hills Building
50 George Street
Glasgow
G1 1QE

Telephone: 0141 548 3707
Email: ethics@strath.ac.uk

Consent Form for young people involved in Early Intervention projects.

Name of department: Law School

Title of the study: Diverting young people from crime: The role of multiagency early intervention projects

I confirm that I have read and understood the information sheet for the above project and the researcher has answered any queries to my satisfaction.

I understand that my participation is voluntary and that I am free to withdraw from the project at any time, without having to give a reason and without any consequences.

I understand that I can withdraw my data from the study at any time.

I understand that any information recorded in the investigation will remain confidential and no information that identifies me will be made publicly available.

I consent to being a participant in the project

I consent to being contacted in the future in any follow up to this project

Yes No

(PRINT NAME)	
Signature of Participant:	Date:
Participant Address:	
Participant Phone Number:	



Researchers from Strathclyde University want to hear from young people who have been involved in early intervention for offending behaviour.

Access the short survey via the link below.

Alternatively you can email:

fern.gillon@strath.ac.uk for a copy or call
07772043956.

<https://www.surveymonkey.co.uk/r/eeijustice>

Appendix F - Descriptive Statistics Coding Procedure

Coding Procedure	
Location	1-Location A 2-Location B 3-Location C
Gender	1-male 2-female
age	1-age 8; 2- age 9; 3- age 10; 4- age11; 5- age12; 6- age13; 7-age 14; 8- age 15; 9- age 16; 10- age17
Number of offences	1-1; 2-2; 3-3; 4-4; 5-5
First Offence/ Second Offence	1-Assault; 2- Breach of the Peace; 3- Offensive Weapons; 4- Alcohol; 5- Drugs; 6- Vandalism; 7-Theft; 8- multiple offences; 9-Other; 10- Fire-raising; 11-Sexual Assault; 12- Motoring Offences; 13- Firearms; 14 Fraud; 15= Threatening and Abusive Behaviour
Remorse	1-Yes 2- no 3 No comment, 4- denied offence 5- not discussed

Peers; alcohol; drugs; vulnerable	1 = yes 2= no 3= not discussed
Decision	1= NFA; 2=Police warning; 3= police formal warning; 4= SCRA/PF; 5=Agency; 6= Carry forward
Agency	1= Youth Activity scheme; 2= Sacro; 3=SW; 4= Education 5= Substance misuse service; 5=

Appendix G - Full analysis of frequencies of all variables collected under descriptive statistics

Frequencies

Table 1: total statistics

		Statistics					
		locality	Gender	Age	offence	Decision	Decision Agency
N	Valid	140	140	140	140	140	72
	Missing	0	0	0	0	0	68

Table 2: Locality cases

		locality			
		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	Location A	110	78.6	78.6	78.6
	Location C	21	15.0	15.0	93.6
	Location B	9	6.4	6.4	100.0
	Total	140	100.0	100.0	

As would be expected the largest case study location, Location A, had the highest number of cases discussed (110). The second largest case study location, Location B, had the least number of cases (9). This may be due to the fact that they have an extra level of screening which does not take place in the other two areas, including the smallest location (location C) which had the second highest number of cases.

Table 3: Gender

		Gender			
		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	Male	103	73.6	73.6	73.6
	Female	37	26.4	26.4	100.0
Total		140	100.0	100.0	

In line with general trends in offending behaviour, more boys (74%) were referred to EEI across the case study locations than girls (26%). However, during one interview the relationship between gender, risk and processes was discussed and the potential for young females to be dealt with in other systems due to a heightened perception of risk.

Table 4: Age

		Age			
		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	8	3	2.1	2.1	2.1
	9	5	3.6	3.6	5.7
	10	2	1.4	1.4	7.1
	11	9	6.4	6.4	13.6
	12	22	15.7	15.7	29.3
	13	14	10.0	10.0	39.3
	14	21	15.0	15.0	54.3
	15	42	30.0	30.0	84.3
	16	14	10.0	10.0	94.3
	17	8	5.7	5.7	100.0
	Total		140	100.0	100.0

The age range with the highest referrals across the case study locations is age 15 (30%); the lowest age is 10 (1%). Interestingly, 16 & 17 year olds only contribute to 16 % of overall referrals. There are a range of potential explanations as to the relatively low number of referrals for this age group, against what may be expected due to their propensity to

commit crime. Ages 8-12 contribute to 30% of referrals, however with the change in legislation as to the minimum age of criminal responsibility in the future these young people will not be charged. It is interesting to consider how and where these concerns will be picked up in future.

Table 5: referral offence

		offence			
		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	Assault	45	32.1	32.1	32.1
	Breach of the Peace	15	10.7	10.7	42.9
	Offensive weapons	1	.7	.7	43.6
	Alcohol	1	.7	.7	44.3
	Drugs	4	2.9	2.9	47.1
	Vandalism	25	17.9	17.9	65.0
	Theft	13	9.3	9.3	74.3
	Other	2	1.4	1.4	75.7
	Fire raising	3	2.1	2.1	77.9
	Sexual Assault	2	1.4	1.4	79.3
	Driving	1	.7	.7	80.0
	Firearms	2	1.4	1.4	81.4
	Fraud	4	2.9	2.9	84.3
	Threatening and Abusive Behaviour	22	15.7	15.7	100.0
	Total	140	100.0	100.0	

Assault is the highest offence referral (32%), followed by Vandalism (18%) and Threatening and Abusive Behaviour (16%). Alcohol, Fraud, Fire raising and drugs are all in single figures.

Table 6: Referral decision

		Decision			
		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	NFA	6	4.3	4.3	4.3
	Police Warning	29	20.7	20.7	25.0

Police RJ warning	1	.7	.7	25.7
SCRA/ PF	19	13.6	13.6	39.3
Agency	71	50.7	50.7	90.0
Carry Forward	14	10.0	10.0	100.0
Total	140	100.0	100.0	

The decision made most frequently across the case study areas was to refer a young person to work with an agency (51%). Only one Police Restorative Justice Warning was issued. 5% of cases were no further actioned.

Table 7: Referral Decision Agency

		Decision Agency			
		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	Youth Activity Scheme	21	15.0	29.2	29.2
	Sacro	14	10.0	19.4	48.6
	Social Work	24	17.1	33.3	81.9
	Education	4	2.9	5.6	87.5
	Substance Misuse	3	2.1	4.2	91.7
	Barnardo's	6	4.3	8.3	100.0
	Total	72	51.4	100.0	
Missing	System	68	48.6		
Total		140	100.0		

Of the cases which were referred on to an agency, Social Work received the highest number of referrals (17%). Social work can only receive an EEI referral if a child is already open to them, so all of these cases must have already been known to Social work and in some respects could be considered as dealing with the offence using existing measures or services already involved with the child. Education the other statutory agency involved in EEI received 3% of referrals. Third Sector agencies received 14% of referrals tasked with supporting the young person, completing RJ work or offering substance support services.

Table 8: Remorse

remorse				
	Frequency	Percent	Valid Percent	Cumulative Percent

Valid	Yes	30	21.4	21.4	21.4
	No	14	10.0	10.0	31.4
	No comment	19	13.6	13.6	45.0
	Denied offence	8	5.7	5.7	50.7
	not discussed	69	49.3	49.3	100.0
	Total	140	100.0	100.0	

The response of the young person and their family to the charge was recorded by the researcher as this was identified by respondents as a factor which influenced decision making at EEI. Table 8 and 18 outline both sets of results. The response of the young person was not known, discussed or recorded in 49% of referrals. Of the remaining cases, 21% of young people were remorseful and 10% were noted as showing no remorse. Interestingly, in consideration of another issue arising from interviews around consent and young people, 14% of young people provided a no comment interview and a further 6% denied the offence.

Table 9: Family response to offence

		Family			
		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	Supportive	25	17.9	17.9	17.9
	Not supportive	7	5.0	5.0	22.9
	Not discussed	108	77.1	77.1	100.0
	Total	140	100.0	100.0	

The response of the family to the charge being referred to EEI for consideration was often discussed in terms of being either supportive or not supportive of action. The majority of responses were not known, recorded or discussed (77%). However for those whose response was noted, 18% of families were supportive of some sort of action following the offence and 5% were not supportive.

Table 10: Alcohol

		Alcohol			
		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	Yes	11	7.9	7.9	7.9
	No	3	2.1	2.1	10.0
	Not discussed	126	90.0	90.0	100.0

Total	140	100.0	100.0
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Alcohol and/ or drugs are often considered an important factor leading to young people's involvement in offending behaviour. Alcohol was not discussed or recorded in the majority of young people's cases (90%). Of the remaining cases, it was discussed as an influencing factor in 8% of cases.

Table 10: Drugs

		Drugs			
		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	Yes	8	5.7	5.7	5.7
	No	4	2.9	2.9	8.6
	Not discussed	128	91.4	91.4	100.0
	Total	140	100.0	100.0	

Similarly, the use of substances was not discussed in 91% of cases however were identified as a factor in 6% of cases.

Table 11: Peers

		Peers			
		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	Yes	30	21.4	21.4	21.4
	No	2	1.4	1.4	22.9
	not discussed	108	77.1	77.1	100.0
	Total	140	100.0	100.0	

Another assumption related to youth involvement in offending behaviour is that it is primarily conducted with and against peers. While it was not clear in 78% of cases, peer offending was acknowledged for 21% of cases.

Table 11: Vulnerabilities

Vulnerable

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	Mental Health Concerns	4	2.9	2.9	2.9
	Additional Support Needs	8	5.7	5.7	8.6
	Care Experienced	9	6.4	6.4	15.0
	Young Carer	2	1.4	1.4	16.4
	Bereaved	1	.7	.7	17.1
	Multiple	11	7.9	7.9	25.0
	Domestic Abuse	3	2.1	2.1	27.1
	none discussed	99	70.7	70.7	97.9
	victim of crime	1	.7	.7	98.6
	School concerns	2	1.4	1.4	100.0
	Total	140	100.0	100.0	

One of the values identified within EEI practice was *holistic decision making*, where professionals consider all aspects of a young person's life in relation to their behaviour. The descriptive statistics recorded a range of issues young people face discussed by professionals in regards to a young person's circumstances. Potential vulnerabilities in young people's lives were not discussed or recorded in the majority of cases (71%). However for 29% of cases vulnerabilities were discussed which included: mental health concerns, additional support needs, being care experienced or a carer themselves, and having faced bereavement. 8% of young people discussed had multiple vulnerabilities.

Table 12: Number of Offences

		Number of offence			Cumulative Percent
		Frequency	Percent	Valid Percent	
Valid	1	126	90.0	90.0	90.0
	2	12	8.6	8.6	98.6
	3	2	1.4	1.4	100.0
	Total	140	100.0	100.0	

Young people can be referred to EEI for more than one offence per referral. The vast majority of young people were referred for only one offence (90%), with less than 10% being referred for two offences (9%) and only 1% being referred for 3 or more offences.

Table 13: Previous EEI referral

		Previous referral			
		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	Yes	46	32.9	58.2	58.2
	no	11	7.9	13.9	72.2
	First offence	22	15.7	27.8	100.0
	Total	79	56.4	100.0	
	Not discussed	61	43.6		
Total		140	100.0		

Where it was discussed (56%), any previous referrals to EEI were recorded. A third of young people had been referred to EEI previously (33%). 8% of young people had not been previously referred to EEI, however that does not mean that have not been involved in offending behaviour in the past. The current EEI referral was the first offence for 16% of young people discussed.

Table 14: Previous referral offence

		Previous offence			
		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	Assault	7	5.0	5.0	5.0
	Breach of the Peace	4	2.9	2.9	7.9
	Drugs	1	.7	.7	8.6
	Vandalism	7	5.0	5.0	13.6
	Theft	4	2.9	2.9	16.4
	Multiple	1	.7	.7	17.1
	Fire raising	2	1.4	1.4	18.6
	Sexual	1	.7	.7	19.3
	Driving	2	1.4	1.4	20.7
	Racial	3	2.1	2.1	22.9
	Not discussed	93	66.4	66.4	89.3
	Threatening and Abusive Behaviour	15	10.7	10.7	100.0
	Total	140	100.0	100.0	

For the 33% of young people who had been referred previously, the previous referral offence and EEI decision were recorded. The previous referral offence was not discussed in 66% of cases. Threatening and Abusive Behaviour (11%), Assault (5%) and Vandalism (5%) again had the highest number of referrals, where the referral offence was known.

Table 15: Previous EEI decision

		Previous decision			
		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	Police warning letter	5	3.6	3.6	3.6
	Police RJ warning	3	2.1	2.1	5.7
	SCRA/PF	8	5.7	5.7	11.4
	Agency	21	15.0	15.0	26.4
	Not discussed	10	7.1	7.1	33.6
	N/A	93	66.4	66.4	100.0
	Total	140	100.0	100.0	

For the 33% of young people who had been referred previously, the previous decision was not known, discussed or recorded in 7% of cases. For the cases where the outcome was known, the most frequent decision was to refer to an agency (15%). Interestingly none had been NFA.

Table 16: Known to Social Work

		Known SW			
		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	Yes	56	40.0	61.5	61.5
	No	35	25.0	38.5	100.0
	Total	91	65.0	100.0	
	Not discussed	49	35.0		
Total		140	100.0		

Young people's involvement with other statutory agencies such as Social work was noted in interviews as affecting their eligibility for EEI and influencing the decisions which can be made. Information on whether a young person was working with Social work, on either a voluntary or statutory basis, was not known, discussed or recorded in 35% of cases. Of the

remaining 65% of cases, 40% were known to Social Work and 25% were not working with Social Work.

Location A

Age	Gender	Offence	Decision
8	Male 71.8%	Assault 34.5%	Agency 49.1%
1.8%		Vandalism 19.1%	Police Warning 24.5%
9	Female 28.2%	Threatening and Abusive Behaviour 14.5%	SCRA/ PF 15.5%
4.5%		Breach of the Peace 10.0%	Carry Forward 10.9%
10		Theft 8.2%	Police RJ warning 0.0%
0.9%		Fraud 3.6%	NFA 0.0%
11		Firearms 1.8%	
8.2%		Other 1.8%	
12		Fire raising 1.8%	
13.6%		Sexual Assault 1.8%	
13		Driving 0.9%	
9.1%		Offensive weapons 0.9%	
14		Drugs 0.9%	
16.4%			
15			
32.7%			
16			
8.2%			
17			
4.5%			

Location B

Age	Gender	Offence	Decision
8	Male 66.7%	Breach of the Peace	NFA
0.0%			66.7%
9	Female 33.3%	44.4%	Agency
0.0%		Vandalism	33.3%
10		22.2%	Police Warning
0.0%		Assault	0.0%
11		11.1%	SCRA/ PF
22.2%		Alcohol	0.0%
13		11.1%	
22.2%			

14		Drugs	Carry Forward
11.1%		11.1%	0.0%
15			Police RJ warning
11.1%			0.0%
16			
33.3%			
17	0.0%		

Location C

Age		Gender	Offence	Decision	
8	4.8%	Male	Threatening and Abusive	Agency	66.7%
9	0.0%	85.7%	Behaviour	Police Warning	9.5%
10	4.8%	Female	28.6%	SCRA/ PF	9.5%
11	0.0%	14.3%	Assault	Carry Forward	9.5%
12	23.8%		28.6%	Police RJ warning	4.8%
13	9.5%		Theft	NFA	0.0%
14	9.5%		19.0%		
15	23.8%		Drugs		
16	9.5%		9.5%		
17	14.3%		Vandalism		
			9.5%		
			Fire raising		
			4.8%		

Appendix H- EEI Matrix

	Partnership approach Extent of partnership working	Chair	Agencies Involved	Grounds for referral to EEI.	Are young people involved?	No of young people referred <small>(avg. per year unless stated otherwise)</small>	Other info relevant to area
Area							
Aberdeen City/ shire & Moray	Coordinator Function Central Management Unit liaises with partners on a case by case basis.	Police	Police; SW; Education; and any others known to young person	Offence grounds only.	No		YJMU
Argyll and Bute	Multi-agency Forum Agency representatives meet fortnightly to discuss all cases	Social Work	Police; SW; Health; and Education No third sector.	EEI covers 'Child Concerns' including :absconding, domestic abuse and offending	No		
Clackmannan shire	Multi-agency Forum Agency representatives meet	Social Work	Police; SW; Education; Barnardos; Sacro; Positive Changes, a	Offence grounds only.	No		Seem keen to support the project

	fortnightly to discuss all cases		youth justice joint initiative between police and social work No Health.				
Dumfries and Galloway	Multi-agency Forum Agency representatives meet fortnightly to discuss all cases	Youth Justice Manager, SW	Police; SW; Education; Health; Sacro; Community Safety	Justice however, in their Youth Justice Strategy 2014-17 proposals to, "expand EEI Model for those in need of care and protection"	No	232	Been part of independent evaluation and WSA evaluation
East Ayrshire	Coordinator Function-with option of forum. Coordinator liaises with partners on a case by case basis however reserves the option to hold a multi-agency	Social Work	Social Work; Police; Education; Health; and any others known to young person	If discussed at a meeting, EEI sits within the Multi-Agency Resource Screening Group (MARG) forum, an existing multi-agency group, for vulnerable	When young person is notified that their case will be discussed at a multi-agency meeting	166	

	meeting as and when required.			adults and children.	they are given the contact details of the coordinator. They can contact them for more information or to discuss their case.		
East Dunbartons hire	Multi-agency Forum Agency representatives meet fortnightly to discuss all cases	Social Work, soon to be community safety.	Police; Health; Education; Social Work; Community Safety; Third Sector	Offence grounds only.	No.	Estimated 78	East Dunbartonshire is looking at the effectiveness of interventions by analysing who is being re-referred

East Lothian	Multi-agency Forum Agency representatives meet fortnightly to discuss all cases	Social Work	Police; Health; Education; Social Work; Housing No Third Sector	Child wellbeing and domestic abuse included along with offending.	No		
Edinburgh	Multi-agency Forum Agency representatives meet fortnightly to discuss all cases	Social Work	Police; SW; education; community safety; and health. No third sector	Offence grounds only.	No.	402	
Falkirk	Multi-agency Forum Agency representatives meet fortnightly to discuss all cases	Social Work	Police; SW; Education; Voluntary sector including Sacro. Currently trying to engage Community Learning and Development and the Named Person	Offence grounds only.	No.	Approx. 336	Conduct a 6 month review, if consent to contact, using police systems. Will re-review cases if they fail to engage.

Fife	Multi-agency Forum Agency representatives meet fortnightly to discuss all cases	Police	Police; SW; Education; Health; Sacro; Community Safety	Offence grounds only.	No.	860	
Glasgow	Multi-agency Forum Agency representatives meet fortnightly to discuss all cases	Community Safety Glasgow	Police; SW; Education; Health; community safety; third sector	Offence grounds only.	This is something which is currently being developed.	772	
Highland	Coordinator Function Coordination occurs between police and the Youth Action Service, an interagency service delivery team).	Youth Action Service Team (a multi-agency service delivery model)	SW: Health :Police; Action for Children	young people who are offending, at risk of offending or have substance misuse issues	No.	190	Highland was a pathfinder area for GIRFEC and feel their model is where EEI is going to end up, if GIRFEC and WSA are

							implemen ted fully.
Midlothian	Fortnightly. However plan to disband these meeting and discuss child offending in stage 2 locality meetings in schools. Based on the move from named person.	Social Work	Police coordinator; Community Development and Learning; Community Safety; Council run, drug and alcohol support service No education directly. No Health.	Offence grounds only. Police screen either child concern or child offending.	No.	350	Multi-agency working has spread wider than the meeting. IE funding and designing multi-agency responses to crime from the intelligence gathered through EEI.

Moray	Coordinator Function Central Management Unit liaises with partners on a case by case basis.	Police	Police; education; SW; Health and any others known to young person	Offence grounds only.			YJMU
North Ayrshire	Coordinator Function-with option of Forum Coordinator liaises with partners on a case by case basis however reserves the option to hold a multi-agency meeting as and when required.	Social Worker who sits within Police Scotland.	Police; Health; Education; SW; Sacro; Community Safety	Offence grounds only.	No.	90	
North Lanarkshire	Coordinator Function-with option of meeting. Coordinator liaises with partners on a cases by case basis however reserves the option to hold a	Social Work	Police; Education; SW; Community Safety; Housing No Health	Offence grounds only.	No. However invited to contact coordinator	High (one of highest outside Glasgow)	Allocator/ Coordinator model

	multi-agency meeting as and when required.						
Orkney Islands	Coordinator Function Coordinator liaises with partners on a case by case basis however reserves the option to hold a multi-agency meeting as and when required.	SW	Police; SW; Ed; Health	Offence grounds only.		Very low numbers.	
Renfrewshire	Multi-agency Forum Agency representatives meet fortnightly to discuss all cases	Social Work	Police; Health; Social Work; Anti-social Behaviour. No Education or third sector	Offending Grounds only.	No.	167	

<p>Scottish Borders</p>	<p>Both a Multi-agency forum (for young people who offend age 16&17) and a Coordinator function for under 16.</p>	<p>Social Work</p>	<p>Social Work, Health, Education, Opportunities for All, Mental Health, Action for Children.</p> <p>No police at group.</p>	<p>Offending grounds only at meeting.</p>	<p>No</p>	<p>Meetings Approx. 20 a month</p>	<p>Cases of 16 & 17 year olds who offend are dealt with at a multiagency meeting, decisions are approved by police. All concerns, both offending and child protection are dealt with between police and social work and decision is</p>
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							enforced at a locality meeting.
Shetland Islands	Multi-agency Forum Agency representatives meet fortnightly to discuss all cases	Police	Police; Social work; Education; Health	Child Protection and Offending	No.	Approx. 50 per month across both categories	
South Ayrshire	Coordinator Function- with option for Forum Coordinator liaises with partners on a case by case basis however reserves the option to hold a multi-agency meeting as and when required.	Social Work	Police; Education; SW; Health	Offending grounds only.	No.		

South Lanarkshire	Multi-agency Forum Agency representatives meet fortnightly to discuss all cases	Social Work	Police; SW; Education; Skills Development Scotland; Reporter No Health	Offending grounds only.	No.	March-May 15= 86 young people	
Stirling	Multi-agency Forum Agency representatives meet fortnightly to discuss all cases	Social Work	Police; Education; SW; Community Safety; Sacro; Barnardos No Health.	Offending grounds only.	No.		
West Dunbartons hire	Coordinator Function-with option for Forum. Coordinator liaises with partners on a case by case basis however reserves the option to hold a multi-agency meeting as and when required.	Social Work	Police; Health; Education; SW	Offending Grounds only.	Every young person is invited to speak to coordinator prior to Multi-agency meeting.	116	Jan 14-15 401 offences =129 yp 32% went to EEI 11% recidivism

