

The criminal justice system in England is looking north for ideas. The introduction of Childrens Hearings would be a good place to start, Vicky Davidson discovers

Scotland's method of dealing with young offenders is under the spotlight again, with the Government proposing an increase from eight to 12 in the age of criminal responsibility and changes to the oft-praised Children's Hearings system being mooted.

Meanwhile reform campaigners in England and Wales, where more children are jailed through the juvenile Courts system than any other country in Western Europe, are gazing enviously over Hadrian's Wall, and figuring out how to overcome political apathy to push through reform that will save lives – and millions of pounds wasted on custody that only breeds repeat-offending.

Shauneen Lambe is solicitor with Just for Kids, a charity which works at the sharp edge in communities with high rates of youth offending in London. She believes that moving towards the Scottish model would be a step in the right direction.

"Childrens Hearings system is definitely something we should all aspire to," she says. "The problem with the English system is that we are sending children to an adversarial system. They are supposed to deal with it in an adult way, with the same level of culpability as adults and the same level of responsibility.

"It's very problematic because the reasons for offending in children are very complex. The reason we set up our charity is that we need to do so much to help these kids break the cycle. A lot have special educational needs, kids who are in care, they have been out of education for a really long time. Without the ability to look at that as a whole we are never going to resolve the problems of youth offending."

In England and Wales, there are upwards of 2,500 children in prison, and 76 per cent will go on to reoffend within one year of release.

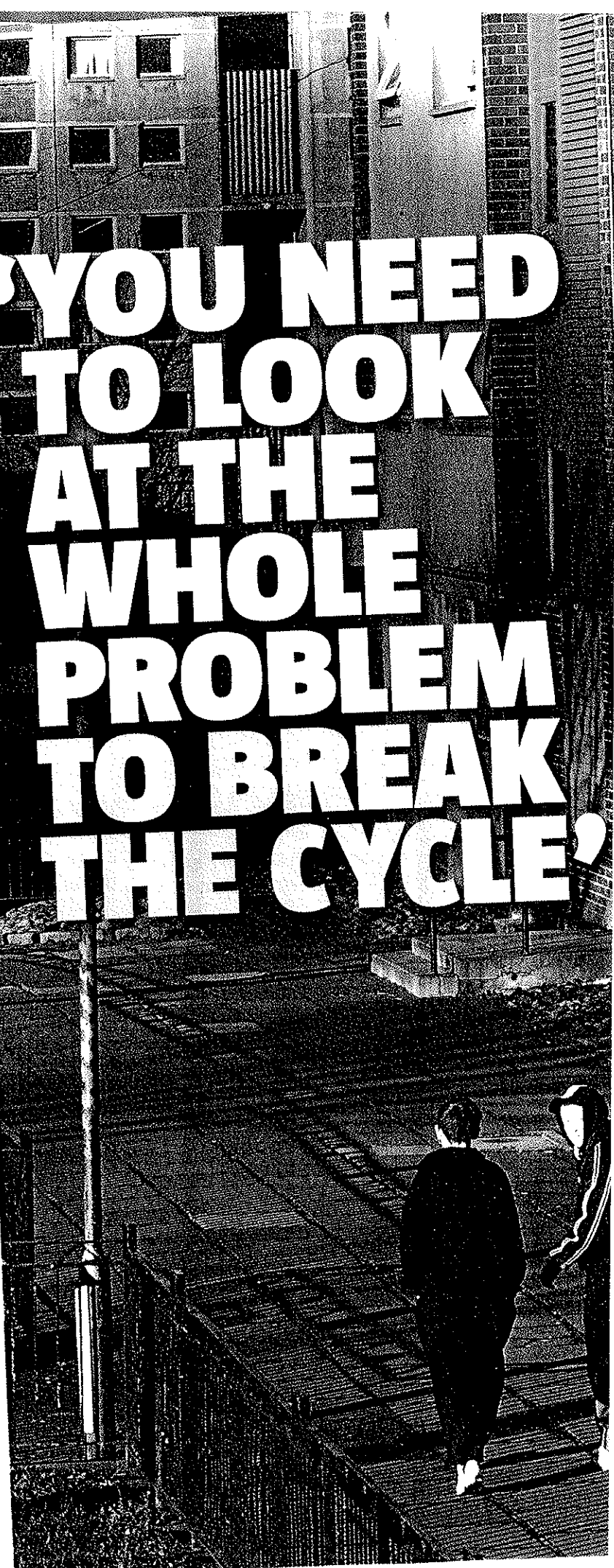
In the experience of Just for Kids' lawyers, the cracks in modern community life have contributed to the need, now more than ever, for a more holistic approach to youth offending.

"Generations seem isolated from each other, and kids appear to be in packs →

**'NOBODY IS
LOOKING AT THE
BEST INTERESTS
OF THE CHILD'**

SHAUNEEN LAMBE, Just for Kids charity

**'YOU NEED
TO LOOK
AT THE
WHOLE
PROBLEM
TO BREAK
THE CYCLE'**



C
td
CA
TE
EM

Popp
A cor
Logie

because they feel safer in their group of friends and their territory. That makes them intimidating to other people. I do think there's a greater need for community ties," says Lambe.

That is something that the Children's Hearings systems takes into account, with its Panel of non-expert members of the public, who sit alongside social workers and the children's panel Reporters – who refer 50,000 cases to the Hearings each year, of which 40,000 are estimated to be over issues of care rather than offending.

Lambe adds: "The real problem lies with this adversarial system we have in England and Wales. As a lawyer, when I go to court my job is to defend my client to the best of my ability – that is, to get them off the charge – while the prosecution's job is to ensure they are convicted.

"Nobody is looking at the best interests of the child. If we had a more welfare-based system they would be saying it's not a dispute in the way it's prosecuted, it's a dispute about why this child was on the street at 3am – not so much about attributing blame.

"I genuinely believe [children] understand less than 10 per cent of what goes on in court. They abdicate all responsibility to the adults, and just wait for a result, whatever it may be. They already consider themselves bad kids. Time and again the judge says 'do you understand what's being said' and if they don't, they're told the solicitor will explain once they get out of court. What is the point of the whole process if they can't engage with it?"

Neil Puffett, senior reporter with Children and Young People Now magazine, points out that reform still seems a long way off.

OPINION IS VASTLY divided over reform of the system of England. Puffett says he covers on a weekly basis a heated and constant debate over what the best way forward should be.

"There is a vast range of arguments: prevention, early intervention, more targeted support for children with mental health problems in early years," he says. "Many people are keen to reduce child custody. But there is no consensus on how that should be tackled."

Lambe insists there is a desire among children's charities, reform groups and many professionals who work with young people to drive forward changes in the way that the criminal justice system in England and Wales deals with young offenders. "But there is no political will to do that at all," she adds.

Frances Crook, director of The Howard League for Penal Reform which is campaigning for reform of the youth criminal justice system, says some politicians have been "quite negative and nasty" about reform in England.

But she cautions that the Scottish system isn't perfect, either: "I visited Polmont Young Offenders Institution last week with the heads of European prison services from 47 countries within the Council of Europe. They included people who run big prison services in Italy, Germany, Eastern Europe.

"Now, Polmont has some good standards and some worrying practices, it's bog-standard. But they were very quiet as we went around, and when we got back to the conference they were appalled.

"They said 'how can you not be deeply ashamed of what's going in in prisons with young people?' We should be ashamed. And the governor told us that 90 per cent of the young people in that prison had been there before. This is not helping victims, and it's not helping children, it's damaging them.



TIME FOR CHANGE
SHAUNEEN LAMBE
BELIEVES IN SCOTTISH
TEMPLATE

'90% OF KIDS IN THE PRISON HAD BEEN THERE BEFORE'

FRANCES CROOK, Howard League

It's all in the head...

Studies reveal that neglect and mistreatment of young kids affects their brain's development and understanding of responsibility

Shauneen Lambe, of Just for Kids, is not alone in believing that raising the age of criminal responsibility should be the starting point for reform of the youth justice system.

Doctors studying the development of children's brains say limits of criminal responsibility should be tied to physiological and neurological development. Ernest Galton, consultant forensic psychiatrist of developmental disabilities at St Andrew's Hospital, Northampton, is among neuropsychiatrists who have found that the part of the brain which would recognise consequences of antisocial behaviour hasn't fully developed until the age of 23 or 24.

The brain undergoes radical development during early childhood. Dr Galton's studies have identified that children who are neglected or mistreated during this phase have brains which are vastly different to those of children who are nurtured and cared for, which affects their responses and choices, and, he believes, means antisocial behaviour in children from disturbed backgrounds has a physical cause, rather than being the choice of children to "be bad".

"This is one of the main reasons why the juvenile death penalty in the United States was recently abolished," says Lambe. [Execution of under-18s was struck down in 2005 by the Supreme Court].

"Italy, Germany, France, Sweden, these are all bigger countries with just the same sorts of problems and young people as us. But they deal with children in the context of them as a whole, they are not criminalised at such an early age.

"In Italy, for example, the age of criminal responsibility is 14. I think once you can smoke, have sex, have an alcoholic drink, that's the age where we should say you can commit a crime."

She adds: "There are things in Scotland that we can learn, some of the principles of the Children's Hearings and some of the practices, but the disadvantage is it is still a criminal justice system. It's not solving the problems which are causing the offending behaviour. It is based around the offence and the offender, rather than the child and the family. So I would rather see both Scotland and England go down the European route."

IN JULY 2008 the Howard League launched its Growing Up, Shut Up campaign to improve care for the 2,500 children in custody and thousands others in the penal system.

But for the pitfalls that still exist with in the Scots system, which are being addressed by the Scottish Government in recent proposals to reform the Hearings system, Crook says that she still fervently hopes that Kenny MacAskill's nod to the advantages of the Scandinavian system will bear fruit.

"The attempts made in Scotland to change things offer a real opportunity there, which is very exciting. But you don't want to go the route of England with its Juvenile Courts. Kenny MacAskill told me he wants it to be more like Scandinavia: you go for it! If Scotland goes down that route, then England might follow suit. I would love to see Scotland lead the way in this, so that we can copy it."

Lambe concludes: "As a society we need to take responsibility. That's very clear message coming out of a lot of these social services cases, such as the Bulger case and the boys in Doncaster; we as a society need to take greater responsibility for these children."

She says media coverage of cases such as the Jon Venables/Robert Thompson murder of Liverpool toddler James Bulger, and the two brothers aged 10 and 11 who tortured another two children in Doncaster earlier this year, prompt a knee-jerk reaction from the Westminster government. "They know locking up kids doesn't work. It costs £100,000 to lock up one child – probably double what it would cost to send them to Eton." ●

If you would like to find out more about Children's Hearings – or become involved yourself, go to infoscotland.com/childrenspanel