Grappling with the complexity of Early and Effective Intervention (EEI):
Benevolent Intentions, Negative Consequences in Youth Justice implications for Scotland

A Scottish Justice
Fellowship
Briefing Paper

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Introduction

This paper aims to illustrate a number of concerns regarding early intervention within the sphere of youth justice. While we must endeavor to support children and young people involved in low level offending before concerns escalate, this paper will highlight the importance of apportioning intervention cautiously due to the complexities which can arise when intervening early. In particular, the potential to increase the number of young people coming into contact with the youth justice system, which may have negative consequences. The complexity of this reality is something we cannot avoid. Rather we need to work with it in order to minimise the potential pitfalls it might generate.

Despite the benevolent intentions of practitioners, policy makers and the youth justice systems we have in place for getting involved earlier in children's lives, evidence suggests such early intervention may lead to future negative contact with systems, particularly for the groups of young people who are most vulnerable. While certain evidence that underpins these benevolent endeavors might indicate otherwise, the intended outcomes are complicated due to the intrinsic complexity of children's lives and the inherent tensions and contradictions within the youth justice system.

Getting it right for every child (GIRFEC) is the overarching approach to working with children and their families, in order to make Scotland the best place to grow up for all of its children. The "Getting it right for young people who offend" (2015) youth justice policy extends the benevolent principles of GIRFEC to ensure holistic, proportionate and timely interventions to young people whose behaviour is perceived as problematic. The Whole System Approach (WSA) for young people who offend, ensures a consistent approach to dealing with young people in contact with the criminal justice system. Early and Effective Intervention (EEI) is arguably the first stage in the WSA, comprising of a multiagency decision-making process which aims to circumvent formal system contact to avoid associated concerns, and address unmet need flagged by low level offending.

EEI is largely credited for a large proportion of the reduction in general youth offending statistics. Arguably, it represents the first stage of the youth justice system and in terms of numbers, referrals have increased year on year since its inception and national roll out. And yet, perhaps due to its presentation as an informal system based on a rather common sense approach, there is little academic or external examination or scrutiny of EEI specifically. Without this critical understanding, we cannot fully understand the implication of this system expansion. In addition, the significance of the findings of this research are particularly pertinent as EEI appears to be experiencing a state of flux following on from concerns around data sharing (after GDPR and the Named Person decision), a lack of national robust data, and in the context of increasing inequality and reducing social spending.

When there exists such complexity in the practice itself, as noted below, as well as the wider context of its implementation, there is the risk we deny or minimise potential concerns around intervening early. The research outlined here suggest that this is exactly what we may be doing, and it then responds to the question: what should be done going forward?

What is EEI?

Simply put Early and Effective Intervention (EEI) is a multiagency decision-making process which aims to address low-level offending by children and young people, viewing this behaviour in the holistic context of their life, in order to prevent further offending. The principle behind it is to see this behaviour as a red flag for concerns about their wellbeing generally. Additionally, EEI was intended to circumvent more formal contact with the youth justice system, primarily the use of the Children's Hearing System (CHS), as the initial formal response to offending by children. This follows the recommendation in the Edinburgh Study (McAra & McVie 2010), for maximum diversion from the system and minimum intervention on the part of the system, based on an understanding that the cumulative effect of system contact can have a negative impact with the potential to stigmatise and criminalise. EEI was launched across Scotland in 2011 as part of the wider Whole System Approach, building on early Pre-referral screening (PRS) approaches where cases were reviewed prior to formal system action.

The decision-making process and the extent of agency involvement is different between local authorities in Scotland, to such an extent that no two EEI's operate identically when it comes to practice (Gillon, 2018). EEI varies both in terms of the processes it uses, the range of agency involvement, its recording mechanisms, and to what degree it involves children, young people and their families. There are broadly two models: a multiagency decision making forum or group, or a coordinator model. In either approach police are gatekeepers to the system as they identify and allocate cases suitable for EEI that include children who receive a Police charge (Murray et al., 2015).

The 'multiagency forum' is the most common mode of EEI. It involves a regular meeting to discuss all young people referred by the police, as opposed to a lead agent screening and issuing decisions to partners. Core agencies tend to include Police and Social Work, with more varied attendance from Education, Health, and Third Sector dependent on local arrangements. While no formal risk assessment is undertaken, in making a decision those involved in the EEI process draw on evidence about risk and protective factors to address underlying issues that may affect a child's behaviour. Outcomes from the EEI process, which differ dependent on local provision, can include no further action, police direct measures, action by a single agency (such as additional support at school, social work intervention or health), a referral to a targeted programme or initiative (such as substance misuse). The option to review cases is a further option.

A brief summary of the research

The PhD, this briefing is drawn from, had a specific interest in the practice reality of EEI. The aim of the research was to critically explore how and why decisions were made at the level of EEI, in order to understand the potential impact of such choices on the young people referred, the practitioners involved in this system, and wider youth justice system. The research used a modified grounded theory approach, where the researcher is led by the initial data collected, once a theory begins to emerge from the data it is then applied to existing theoretical frameworks (Charmaz, 2006).

The research initially involved a national consultation in order to understand the issues around EEI from a number of perspectives. Following on from this the research focused in on particular areas of practice within three local authorities which formed case studies. The locations were chosen to represent the varied practice identified in the scoping study, rather than any uniformity. Within the case study areas interviews were conducted with practitioners involved in or impacted by EEI; observations of the EEI decision making process were undertaken — which also provided the opportunity to collect data on the young people discussed. The analysis of this data led to it being applied to Stanley Cohen's theories of social control (Cohen, 1985).

Benevolent Intentions on the part of practitioners

There is significant evidence that Early Intervention initiatives are based on well-meaning attempts to address the underlying causes of offending, which include: poverty, trauma and adversity, school exclusion, victimisation and bullying. The rationale is supplemented by a common-sense understanding of the importance of keeping young people away from stigmatizing and labelling systems, and the notion of addressing concerns about their wellbeing early —before potential escalation.

It is evident that those practitioners implementing EEI had benevolent intentions, with a clear foundation in the rhetoric of policy such as GIRFEC and WSA, and undoubtedly some young people will benefit from EEI. It was clear that practitioners, who include police, social work, education, and third sector, understood their role to be addressing potential underlying wellbeing concerns, and that working in partnership with other agencies was the most effective approach to do so. However there were a number of other, often contradictory, principles (punishment, restoration etc.) which influenced decision-making at EEI meetings and that compromised the outcomes, despite best intentions. So while the intentions are benevolent, it was evident that the process could easily be led by a crime control agenda rather than a forum to address wellbeing.

Further, decision-making was constrained by other issues such as power imbalances between agencies and their representatives, as well as resource availability and external system issues, such as eligibility criteria.

Part of the assumed benevolence of the EEI system is its apparent informality. But in reality it is an extension of the formal youth justice system rather than the alternative it was initially intended and espoused to be. While in the initial years there may have been a decrease in referrals to the Scottish Children's Reporters Administration (SCRA) on offence grounds for example, there is a simultaneous increase in referrals to EEI, although national EEI data is heavily caveated. **It is important that EEI is recognised as a new formal system so we can then acknowledge the potential for it to bring different, and**

therefore more, children into contact with the system, earlier in their lives and potentially for longer.

The potential for net-widening as a result of EEI

Though EEI is cloaked in good intentions, this does not mitigate its potential risks. Indeed, it can generate a number of negative consequences, namely the possibility for widening the 'net' of the system through the introduction of new issues and expanded thresholds for involvement. This concept of net-widening, developed by Cohen, argues that 'new' diversionary systems for dealing with offending behavior often focus on a range of new issues or problems that extend beyond traditional justice concerns. Traditional youth justice systems are concerned with welfare, EEI is concerned with wellbeing, a much broader concept which means a broader threshold for justifying young people be brought into the system. While this may offer the opportunity for needs to be identified and support put in place, the net may actually become deeper, with a perceived failure to engage or change leading to children becoming trapped. The net is essentially catching children that would have previously avoided contact with formal systems. Some may escape the net unscathed; some will be held in the net unnecessarily; and others will be propelled from one net to another, potentially a more serious net (up-tariffing). The newly sized nets reflect the shifted parameters of the penal system and the boundaries become increasingly blurred. This brings a raft of new behaviours (eg bullying), actors (housing) and systems (education) into the reach of the justice system.

Negative Consequences of (early), (intensive) contact with the system

The largely theoretical argument of net-widening was evidenced in the practice of EEI observed in this research. The research suggests that decisions made through EEI were based on internal criteria and thresholds rather than young people's behaviour and needs. Risk of offending or negative outcomes, potential risk and retaining risk within the EEI system was central to discussions. Significantly, there was a potential over-reliance on targeted interventions rather than universal supports, despite the light-touch approach promoted. This is understandable when considering that EEI is a multi-agency practice where the bringing together of different agencies creates a momentum that leads to intervention. In a multiagency context it is important that care is taken to use targeted interventions only when absolutely necessary and to emphasize universal support.

Of the EEI offence referrals which were observed during the study 70% had no known wellbeing concerns. While this number may seem high, it is indicative of the wide sweep of the net. Half of these referrals were then offered a specialist intervention which brought them into services. In this way the benevolence of the early intervention agenda may in fact be strengthening and expanding the control measure that young people are subject to through different agencies. Furthermore, in only 4% of sampled cases no further action was taken, indicating that EEI risks increasing interventions more generally.

One of the most significant and concerning aspects of EEIs current delivery and informal approach is its failure to comply with central aspects of child-friendly justice and The United Nations Convention of the Rights of the Child (UNCRC). In particular, the failure to ensure the child and their families' participation is in contravention of Article 5 and 12. Additionally, there are numerous procedural concerns

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including confidentiality and information sharing, consent and access to information, and procedural fairness. Often these breaches are defended with reference to the informality of system and the perceived light-touch nature of EEI. However, evidence tells us that support provided in conjunction with people involved in the process is most effective, often they know best what the issues are and how they want to be supported. Therefore children, young people and their families should be supported to meaningfully engage with the processes and support they are offered and involved in. Additionally, if rights cannot be upheld in a process it is arguably not fit for purpose and requires consideration.

Reflection and Recommendation

There are inherent complexities and contradictions in the intentions of EEI, which are echoed in EEI practice, and are reflective of the wider policy and theoretical frameworks in youth justice. Because of this, it is quite possible that the practice leads to the very outcomes it intends to avoid and that the reach of the youth justice system extends further and earlier into the lives of young people and their families, and while not inherently negative could lead to negative outcomes. While there is significant evidence to support the notion of an early intervention system, and there currently exist examples of EEI'S good

and effective practice, there is also significant evidence to suggest that the approach and practice currently is not sufficiently considering the potential for unintended consequences, and therefore not achieving the desired outcomes for all children and young people who go through this system. Early intervention should not be relied on at the expense of universal service provision and addressing the failure to uphold certain rights. It seems necessary that the lens for this approach should be broadened to include notions such as universalism, inclusion, rights and minimum intervention, if it is to improve outcomes for children and young people.

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