

BRIEFING SERIES: MAKING REFORM WORK | PIECE 2 OF 4

The 80% Problem

Why youth justice reform cannot succeed without SEND reform

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OCTOBER 2026 UPDATE

Five months on. At the AYM conference in October, the gap this paper describes was raised from every direction. The minister spoke about partnerships delivering custody reform. Heads of service described being unable to fund bail ISS. Practitioners said Child First is understood but applied differently from one area to the next. The 80% figure has not changed. Neither has the separation between the two reforms.

Within days of each other in May 2026, the government published a Youth Justice White Paper and closed a SEND Reform consultation. Both documents describe, in significant detail, the same children.

Neither was written as if the other exists.

That is not a drafting oversight. It is a structural problem and it is the problem that will determine whether this round of reform succeeds or fails at the point of delivery.

The number that should have stopped everyone

The Youth Justice White Paper contains a statistic that deserves far more attention than it has received.

Eighty per cent of children cautioned or sentenced in the youth justice system have special educational needs. That figure comes from joint MoJ and DfE analysis, cited in the White Paper itself. It is noted and then the White Paper moves on.

It should not.

If eight in ten children in contact with youth justice services have SEND, then youth justice is, in significant part, a SEND system operating under a different name. The children are the same. The families are the same. The workers, in many cases, are the same. What differs is the commissioning architecture, the funding streams, the statutory duties, the inspection regimes, and the departmental ownership.

The question reform has to answer is not whether this overlap exists. It is what we intend to do about it.

Three strategies, two departments, one child

In the space of three months, the government published three major policy documents.

Every Child Achieving and Thriving, the Schools and SEND White Paper, published February 2026. A Modern Youth Justice System, the Youth Justice White Paper, published May 2026. The SEND Reform consultation, which closed 18 May 2026.

Three strategies, each substantial, each ambitious, each apparently unaware the others exist.

This is not unusual. Policy development in Whitehall follows departmental lines. MoJ holds youth justice. DfE holds SEND. The accountability architecture, select committees, spending reviews, inspection frameworks, reinforces those lines rather than cutting across them.

The children those departments are writing about do not live inside departmental silos. They live in families, in neighbourhoods, in schools, in communities. When those systems fail to communicate, it is the child who absorbs the friction. Every time.

What this means for Turnaround commissioning

The Youth Justice White Paper commits to expanding the Turnaround Programme: early intervention, community-based, designed to divert children from the formal justice system. The funding is £15.4 million per year for three years to March 2029.

For a local authority commissioning Turnaround in practice, the 80% figure should be the starting point, not an afterthought. If the majority of children being targeted have SEND, the delivery model needs to be built around that reality from day one.

That means assessment tools that identify SEND needs at the point of entry, not after a child has already moved through multiple thresholds. It means a workforce with the competence to work with children with communication needs, learning differences, and undiagnosed conditions. It means partnership agreements with SEND teams, EHC plan coordinators, and specialist education providers built into the commissioning model, not added as a referral pathway after the fact. It means commissioning timelines that account for the reality that recruiting into SEND-competent roles takes longer, costs more, and competes with every other employer in the same depleted labour market.

None of this is impossible. None of it is reflected in how the Turnaround expansion is currently being described at a national level.

Racial disproportionality: the right diagnosis, an incomplete prescription

The White Paper deserves credit for something previous policy documents have consistently failed to do. It names racial disproportionality directly. It acknowledges adultification bias, the documented tendency for Black children to be perceived as older, more culpable, and less deserving of mitigation than white children in equivalent circumstances, as a structural failure of the current system. It states explicitly that a fair and effective youth justice system cannot be built while ignoring persistent racial disproportionality within it.

Naming the problem is necessary. It is not sufficient.

The test of reform is not whether the right words appear in a policy document. It is whether the design of the system delivers different outcomes for Black children. On the evidence of the White Paper as written, there are three specific points where the design does not yet match the stated ambition.

The admission of guilt barrier

Black children are disproportionately excluded from out of court disposals because those disposals require a formal admission of guilt. The relationship between Black children and the police, shaped by decades of disproportionate stop and search and fractured trust, means that admission is less likely to be forthcoming. Not because the child did not do what they are accused of. Because the institutional context makes formal cooperation an act of significant personal risk.

The child who will not admit guilt to an officer they do not trust is not demonstrating a lack of remorse. They are making a rational calculation about a system that has not earned their trust. The system then uses that calculation to exclude them from the very disposal designed to keep them out of formal proceedings. The circularity is not accidental. It is baked into the design.

The government's response has genuine merit. The proposed shift from admission of guilt to acceptance of responsibility creates more flexibility. The Outcome 23 framework for deferred prosecution schemes, which does not require a formal admission, is a structural improvement. In trailblazer areas such as Greater Manchester and Essex, the decision to offer Outcome 23 is managed by specialised police youth justice officers and youth justice services who triage cases before they reach a formal panel.

In forces without a specialised youth justice unit, the decision defaults to officers whose practices generated the disparity in the first place. The reform works where it is properly resourced. The White Paper does not set out how quickly every other area is expected to reach that standard, or what happens to children in those areas in the interim.

Adultification and who is not being trained

I have stood in London courts, one of the most ethnically diverse cities in the world, and watched this happen. The same court. The same judge. The same day. A Black boy and a white boy, similar ages, similar offences, similar backgrounds on paper. One receives a shorter Referral Order. The other is offered an out of court disposal that was never put to the Black child. No explanation offered. No inconsistency acknowledged.

This is not anecdote. It is a pattern with a substantial evidence base, and it is driven by a specific mechanism: the decision-maker's perception of who the child in front of them is, how old they seem, how threatening, how culpable, how deserving of a second chance.

The White Paper's response is to introduce mandatory specialist training for defence lawyers, ensuring children have advocates capable of identifying and challenging adultification bias in the courtroom. That is welcome.

The judges and magistrates making the decisions are not in the training framework. The government has identified the problem, equipped the advocate to challenge it, and left the decision-maker untouched. Why the people with the actual power to change outcomes are not receiving the same mandatory training is a question this White Paper does not answer.

The Youth Intervention Court and the closed system problem

The government's own data shows Black children are two to eight percentage points more likely to receive a custodial sentence than white children with comparable offence profiles and demographic characteristics. The YIC model is explicitly designed to make the Youth Rehabilitation Order a more credible alternative to custody. If it works as intended, it should reduce that disparity. The intent is right.

The structural problem has not been resolved. The YIC places sustained discretionary power in the hands of a single judge over the full duration of a YRO, which runs for up to three years. That judge will not receive mandatory training in adultification bias or racial disproportionality under the current proposals.

For a Black child, the model designed to be protective is potentially three years of compounding disadvantage with no mechanism for challenge and no change of decision-maker. The relational continuity that is the therapeutic logic of the YIC becomes, in the hands of a biased decision-maker, a closed system. The White Paper has acknowledged the bias exists. It has not designed against it here.

Disaggregated data collected from April 2026 will, over time, surface where disparities are widening. What happens when the data confirms what practitioners already know is not yet defined.

The Youth Intervention Court: the right idea, with unanswered questions

Setting the disproportionality question aside, the YIC model raises a set of operational questions that local authorities considering the expression of interest process need answered before they commit.

To understand why, it helps to understand how youth courts currently work. The majority of children who enter the justice system appear first before a magistrates' court. Magistrates sit in rotating panels and are not assigned to individual cases. Where a District Judge sits in a magistrates' court, they cover a list of cases across a sitting day. The system is designed for throughput, not continuity.

The YIC model requires the opposite. A judge remains with a child for the duration of a YRO, up to three years. That is a fundamental departure from how the court system currently functions. The White Paper does not explain how it operates within the existing magistrates' court architecture.

When a child appears at magistrates' court and is identified as suitable for the YIC, what happens? Is the case adjourned for allocation to a YIC judge? That adjournment is a delay, and for a child in the justice system delay is not neutral. Which judge takes the case and how is that allocation made? What happens when the child lives in one area but the YIC pilot sits in another?

The continuity question runs deeper. Judges move, retire, take leave, and are reassigned. The system cannot guarantee the same judge over three years. When that relationship breaks, the child does not experience it as an administrative change. For children already dysregulated around attachment, many of whom have experienced repeated ruptures with adults in authority, it is another person who left.

There is a therapeutic dimension here that the White Paper does not engage with. The relational model works partly because the child does not want to let the judge down. That accountability can motivate. Shame and motivation are close neighbours, particularly for children who have already internalised failure. A child who breaches within the YIC is not disappointing an abstracted system anymore. They are disappointing a specific person who has invested in them. How children with insecure attachment histories process that rupture is not straightforward. It is not addressed.

On legal representation, mandatory specialist training for defence lawyers has been confirmed. How magistrates, District Judges, and legal advisers are being prepared for a substantially different court model, and where that funding sits, has not been answered.

The sequencing problem compounds everything. A fundamental review of criminal courts for child defendants is due to report in August 2027. The implementation deadline is March 2027. The system will be built before the review has reported on whether the current court structure is capable of supporting it.

These questions are not an argument against the YIC model. Problem-solving courts, where properly resourced, have a credible evidence base. The Family Drug and Alcohol Court is the closest domestic comparator and it works where it exists. The challenge is that it has not scaled, precisely because judicial time is finite and the multi-agency infrastructure it depends on is not consistently available.

Local authorities need clear answers to these questions before submitting expressions of interest, and the White Paper has not provided them.

The consultation that practitioners could not answer

The SEND Reform consultation closed on 18 May 2026. That was the same week local authorities were required to submit their draft SEND reform plans, the implementation documents the consultation was ostensibly informing.

The practitioners best placed to respond were entirely consumed by producing the documents the government needed to demonstrate progress. SEND leads, YOT managers, EHC coordinators, school inclusion teams: the people running these services on the ground were not meaningfully available to engage with a consultation about their future design.

Responses were disproportionately submitted by organisations with dedicated policy teams: national bodies, think tanks, law firms, charities with research functions. These are legitimate voices. They are not the voices of people responsible for delivery.

The gap between policy intent and delivery reality is precisely what the consultation was supposed to surface. The design of the process made that impossible. Who government actually heard from during this process matters, and the answer has direct implications for the quality of what follows.

Funding: what was announced and what is available are not the same thing

The £2.4 billion Families First Partnership figure has become the headline investment associated with this reform. The published breakdown tells a different story.

According to the MHCLG technical note Explanatory note on Funding Simplification: consolidated grants and draft conditions, published 13 February 2026 and laid before Parliament on 23 February 2026, new Treasury funding within the FFP package amounts to £866 million. That figure comprises £319 million from the Transformation Fund, announced at Spending Review 2025, and £547 million confirmed in the Local Government Finance Policy Statement of November 2025. The remainder of the £2.4 billion mainstreams existing programmes, including Supporting Families, under a new banner.

A senior strategic lead currently implementing FFP described the headline figure, unprompted, as money pulled together to look good. The published breakdown does not contradict that characterisation.

Local authorities planning services against headline figures rather than available resource will find the gap significant. That gap has a direct effect on what can actually be commissioned, staffed, and delivered.

The same scrutiny applies to the £4 billion SEND package. The breakdown includes £1.8 billion for Experts at Hand, £1.6 billion for the Inclusive Mainstream Fund, £200 million for National SEND Training, and £200 million for Local Authority Transformation. Government has not broken out new versus repackaged funding within that figure. That is not a technicality. It is information local authorities need in order to plan with any accuracy.

Capital funding, the £3.7 billion announced for specialist school places, builds buildings. It cannot fund workforce. Workforce is what determines whether any of this reform reaches children.

Five months

DfE has stated implementation by March 2027. That is now five months away.

Five months to recruit a workforce that does not exist in sufficient numbers. Five months to negotiate partnership agreements across organisations with different governance structures, different funding cycles, and different statutory duties. Five months to build commissioning infrastructure for Turnaround, for contextual safeguarding under FFP, for SEND reform delivery, and potentially for a YIC pilot, at the same time.

There is a version of March 2027 implementation that means governance agreed, staff recruited, referral pathways established, partner agreements signed, and children experiencing something meaningfully

different.

There is a version that means a coordinator appointed, a steering group formed, a plan written.

The history of public service reform is instructive about which version tends to get counted when the first proves impossible.

The 80% figure should be shaping every design decision in this programme. The children who need this reform to work are not a peripheral population. They are the majority of the population this system exists to serve. Getting implementation right requires that SEND and youth justice reform are designed, resourced, and delivered as a single coherent offer.

They are not currently being designed that way.

What needs to happen

Think tanks, legal practices, and national bodies have had formal mechanisms to engage with this reform. The practitioners who will deliver it have not been meaningfully heard.

Before the implementation architecture is set, government needs to establish a structured practitioner reference process: YOT managers, SEND leads, EHC coordinators, school inclusion teams, children's social care practitioners, and the Black-led community organisations working with children and families most affected by the disparities this White Paper has acknowledged. Not a one-off engagement event. A mechanism with enough time, structure, and weight to surface what delivery actually requires.

The SEND consultation closed before the people running SEND services could respond. The court review reports after the implementation deadline. These are not administrative inconveniences. They are design choices, and they will shape the quality of what gets built.

The children this reform is designed to serve deserve a system built with the people who know them best in the room. Those people have not been asked.

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This is Piece 2 of Making Reform Work, a four-part series published between May and June 2026. The full series is available at applewhaiteadvisory.co.uk.