

The Youth Court

Guidelines for Operation and Layout in Northern
Ireland

Working in
Partnership;
Supporting
the Judiciary;
Improving
Courts and
Tribunals

Contents

Foreword by the Lady Chief Justice	4
Background	7
Constitution and Composition of Youth Courts	8
Holding Youth Courts	10
Reporting Restrictions	10
The Guidelines – Best Practice	11
Before the court hearing	11
At the Youth Court	12
Other Information	19
Courthouse Details	20

Foreword by The Right Honourable
Dame Siobhan Keegan
Lady Chief Justice of Northern Ireland



I am pleased to endorse this revised set of Guidelines for the operation of Youth Courts in Northern Ireland.

These guidelines continue to provide information and outline best practice to make access to the courts less formal and the experience for children, a more positive one. The guidelines remain compliant with ECHR fair trial provisions and reassure all that the needs of children within the Youth Justice system are regularly reviewed and maintained. This updated version takes into account positive changes which have been introduced since the last review.

This includes the Registered Intermediary scheme which was established in 2017 and offers additional support for those who have communication difficulties. Uniquely in Northern Ireland

the scheme extends not only to victims and witnesses but also to vulnerable suspects and defendants – including those in the youth courts. Registered Intermediaries are specialists who assist those who experience communication difficulties to provide their answers more effectively during police interview and when giving evidence in court.

The justice process should not in itself expose young defendants to avoidable intimidation or distress and a specific protocol for vulnerable defendants was introduced in 2019 in LCJ Practice Direction 2/2019 which sets out the available support structures and procedures, the principles of which also apply to the Youth Court.

The judiciary have a role in supporting children through the justice system and we will continue to work together with justice agencies including YJA and voluntary agencies such as NCPCC to seek ways to improve the system, reduce delay and ensure that those within the justice system who are most vulnerable are treated fairly and with respect.

The Right Honourable Dame Siobhan Keegan
Lady Chief Justice of Northern Ireland

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Background

The Youth Court Guidelines for Operation and Layout were initially developed in response to a recommendation in the Criminal Justice Review in 2000.

The Review of the Youth Justice System in Northern Ireland (September 2011) further recommended that: “the status and content of the Northern Ireland Courts and Tribunals Service Official Guidelines for Youth Courts should be reviewed and arrangements developed to ensure adherence on a consistent basis”.

The Guidance was updated to reflect the involvement of the Youth Justice Agency in the youth court and the judicial title change of Resident Magistrates to District Judges (Magistrates’ Court).

During the Coronavirus pandemic when the location of many Youth Courts changed it was subsequently noted that some of the Youth Court Guidelines, such as the door notices had lapsed. Following the publication of the DoJ Strategic Framework for Youth Justice in 2022 a Task & Finish Group was established to implement the Framework and develop proposals for improving the outcomes for all children and young people who are on the cusp of, or in contact with, the criminal justice system.

The Task & Finish Group identified the need to review the Youth Court Guidelines for Operation and Layout and update the booklets for parents, children and young people.

Constitution and Composition of Youth Courts

The statutory provisions relating to the constitution and composition of youth courts are set out in:

- The Criminal Justice (Children) (NI) Order 1998 ('the 1998 Order'); and
- The Children and Young Persons Act (NI) 1968 ('the 1968 Act').

Article 27(1) of the 1998 Order says that a juvenile court properly constituted in accordance with the 1968 Act to hear any charge against a child, or to carry out any legal right given to it by or under the 1998 Order or any other statutory provision, may be known as a youth court.

Other legislation relating to the youth court includes:

- Justice (Northern Ireland) Act 2002;
- The Children's Evidence (Northern Ireland) Order 1995;
- The Police and Criminal Evidence (Northern Ireland) Order 1989;
- The Criminal Evidence (Northern Ireland) Order 1999; and
- The Criminal Justice (Northern Ireland) Order 2005.

Article 6 of the European Convention on Human Rights and Articles 12 and 40 of the United Nations Convention on the Rights of the Child are also applicable in the operation of the youth court.

On 30th August 2005 the youth justice system was extended to include those aged 17 years. Legislation defines a child

as “a person who is under the age of 18”. This means that people who have not reached the age of 18 will be treated as children in respect of proceedings against them for criminal offences.

A youth court is made up of a District Judge (Magistrates’ Court), who acts as chairperson of the court, and two lay magistrates (Panel members) one of whom should be a female. Lay magistrates are members of the community (who are not legally qualified), and are appointed based on assessment criteria which include good character; understanding and communication; social awareness; sound judgement; commitment and reliability.

In the unusual circumstance where any one or both of the lay magistrates fails to attend or stay in court during the hearing (a conflict of interest may arise where one of the lay magistrates may personally know someone involved in the case), as long as the chairperson is present the youth court still has the power to act. All acts carried out by the court in these circumstances are valid.

The decision of a youth court is made by a majority of the members and pronounced by the chairperson. However, if only the chairperson and one lay magistrate attend the hearing, the chairperson’s decision is final. If both Panel members agree they can override the chairperson.

Holding Youth Courts

Article 27(2) of the 1998 Order says that youth courts should sit “as often as necessary”. At present youth courts sit at several courthouses throughout Northern Ireland; most venues sit twice a month, Belfast youth court sits more frequently.

As far as possible, sittings of the youth court should be arranged to make sure that children are not in or near the court at the same time as adult defendants. This is provided for under Article 27(3) of the 1998 Order.

Restrictions on Reporting

Article 22(2) of the 1998 Order restricts press and media reporting of proceedings in youth courts and states:

“Where a child is concerned in any criminal proceedings in a youth court or on appeal from a youth court (including proceedings by way of case stated):

- no report shall be published which reveals the name, address or school of the child or includes any particulars likely to lead to the identification of the child; and
- no picture shall be published as being or including a picture of any child so concerned, except where the court or the Department of Justice, if satisfied that it is in the interests of justice to do so, makes an order dispensing with these prohibitions to such extent as may be specified in the order.”

The Guidelines – Best Practice

Before the court hearing

Information

A list of each court venue and their contact telephone numbers are set out on page 20. Alternatively, you can visit our website at <https://www.justiceni.gov.uk/topics/courts-and-tribunals>

Pre-Court Visits

Coming to court can be a stressful experience for anyone and especially for children. It may be appropriate to arrange for any child participating in a court hearing (including the defendant) to visit the courtroom before the hearing so they are familiar with the layout of the courthouse, courtroom and facilities. Pre-court visits can be arranged by contacting the staff in the venue where the court will be sitting.

Support for Young Witnesses

The NSPCC Young Witness Service offers a support service in all criminal courts to witnesses who are under 18 years old, their families, friends and supporters. Children attending youth courts as victims and witnesses are encouraged to use this service to support them throughout the court process. To find out more you should speak to the Police Officer in charge of your case or alternatively contact the NSPCC Young Witness Service at the following number: 028 9344 1947 or at <https://www.nidirect.gov.uk/contacts/nspcc-young-witness-service>

At the Youth Court

Entrances and Waiting Areas

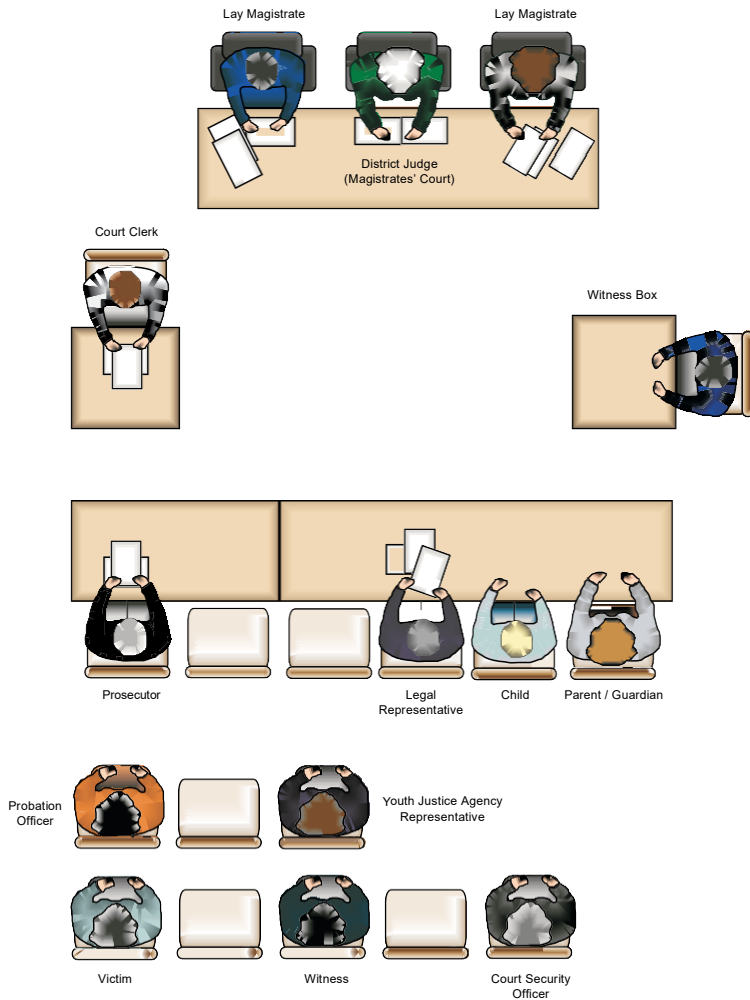
Youth courts usually take place on days when other courts are not in operation or are taking place in other parts of the courthouse. However, when other courts are sitting, Court Administrators should, where possible, make sure that those attending the youth court do not come into contact with people attending other courts and that children are not exposed to intimidation, offensive language or abuse. Some courthouses can provide a separate waiting area or room. Where possible, a separate waiting room or play area will also be provided for other children who are with the parents of the child attending the youth court. Court Administrators should also ensure special arrangements are made to meet the needs of vulnerable victims or intimidated witnesses that they have been made aware of.

Courtroom Layout

When considering the layout of the courtroom, courts should find a layout which encourages effective communication but does not undermine the court's authority or security. It is important that children are comfortable in court and do not feel intimidated or threatened.

In some courthouses, particularly older buildings, the structure and layout may present a challenge to providing all the facilities that are desirable for youth courts. However, the case should always be heard in a courtroom where everyone involved is on the same, or almost the same, level.

Typical Youth Court Layout



Research has shown that the physical court environment - the type of furniture, layout and seating arrangements can influence communication. It can help people to play an active part in the process or can prevent people from feeling involved. Moving the judge and lay magistrates from a raised bench onto the main floor of the court, so they are at or near the same level as the child, means that they can more easily maintain eye contact when speaking to them. This helps to involve the child. However, where this is not possible, the judge and lay magistrates sitting slightly higher than the rest of the court can facilitate a better view for the child.

Children, legal representatives and court officials may stay seated at all times (including during sentencing) if the judge agrees.

Seating Arrangements for the Child

All possible steps should be taken to help the child understand and take part in the proceedings. A child should be able to sit with members of their family or guardians in a place which allows them to talk to their legal representatives or anyone else they need to talk to. Sitting parents next to their children is a way of including them in the court process and encouraging them to take part. Designated seating will be provided in court for children and their parents/guardians. A typical youth court layout is set out in the diagram above.

Hearing & Understanding Proceedings

It is imperative that all those attending court can hear clearly and fully understand the proceedings. This includes victims, witnesses, parents or guardians, **and the child**. To ensure this

happens, audio equipment, both speaker and microphones, will be made available where necessary. In the early stages of a case, the judge and lay magistrates should introduce themselves and other people present and make sure throughout the hearing that everyone involved understands what is happening. The judge should:

- a) explain the course of proceedings to the child in terms he or she can understand;
- b) remind legal representatives of their continuing duty to explain each step of the case and court proceedings to the child;
- c) make sure that, as far as possible, the hearing is carried out in language the child can understand;
- d) with the consent of his or her legal representatives, provide the child or their parent or guardian with an opportunity to speak directly to the court if they wish to; and
- e) ensure that the child understands the outcome of the hearing.

The court should ask the child to identify himself/herself and use plain language, avoiding legal and technical words and phrases taking into account the child's education, maturity and understanding. Regular breaks may be needed to take account of a child's inability to concentrate for long periods.

Robes and Wigs

The judge should not wear robes and legal representatives should not wear robes and wigs, unless the child asks them to or the court (for good reason) orders that they should.

Security Presence

There should be no uniformed police presence in the courtroom, unless there is a good reason. Any person responsible for the security of a child who is in custody should not wear a uniform. There will be a court security officer at each court sitting.

Special Measures

In appropriate cases, an application may be made to the court for a range of 'Special Measures' to protect a child witness while they are giving evidence. This can include CCTV (closed-circuit television), video recordings or screens which block views of individuals or court participants. This is allowed under Article 81(A) of The Police and Criminal Evidence (NI) Order 1989, The Children's Evidence (NI) Order 1995 and The Criminal Evidence (NI) Order 1999. Remote Evidence Centres are available in some locations, where the witness can give their evidence from a room in a building separate to the court.

Only those persons detailed above will be permitted access to the courtroom. Anyone involved in other cases such as legal representatives, children, and their parents/guardians should wait in the designated area outside the courtroom until their case is called.

Legal representatives should not refer to or mention other cases while a case is being dealt with or consult with prosecutors or other legal representatives while the court is sitting as this can make the proceedings more confusing for a child to follow.

An appropriately worded notice will be attached to the entrance door of the court to say who may be permitted access. The judge should take any necessary steps to minimise disruption to individual hearings.

Attendance

All children should be in attendance at court on each occasion their case is being heard unless the judge orders otherwise, in particular the judge should consider if a child needs to attend review hearings. The judge and lay magistrates should ensure, if a child attends for a hearing, that they are present in court when their case is being dealt with. If a child is being held in custody the court should wait until they are in the courtroom before dealing with their case.

Giving Evidence

Any person giving evidence in a youth court who is aged 14 or over will be required to take a 'promissory' oath or to affirm to tell the truth. The court clerk will ask which method the witness wishes to use and invite them to repeat the appropriate words. An affirmation is a 'declaration' to tell the truth but is not sworn on a holy book. A number of holy books are available if an alternative oath is required. Please contact the local court office in advance if you want to use any of these books.

The forms of wording are:

Promissory Oath:

'I promise before ... (according to religious belief) that the evidence I shall give shall be the truth the whole truth and nothing but the truth'.

Affirmation:

'I do solemnly, sincerely and truly declare and affirm that the evidence I shall give shall be the truth, the whole truth, and nothing but the truth'.

A child under the age of 14 years will not be asked to take a promissory oath or affirmation in accordance with Article 20 of The Criminal Justice (Children) (NI) Order 1998. In such circumstances the court will instead ask the child if they understand what it means to tell the truth.

Registered Intermediaries

These are specialists who assist vulnerable victims, witnesses, suspects and defendants with significant communication difficulties to give their answers more effectively during police interview and when giving evidence at the trial. For more information please phone 028 9052 0554 or email DOJ.intermediaries@justice-ni.gov.uk

Additional Information

In addition to these guidelines, NICTS has also produced the following booklets:

- The Youth Court: a guide for children and young people
- The Youth Court: a guide for parents and guardians.

NICTS provides information on a number of areas to assist people when they are required to attend court. These include:

- standards for key users including those attending the youth court;
- making a complaint about NICTS; and
- attending as a witness in a criminal court.

This information is available at all courthouses or on our website www.justice-ni.gov.uk/courts-and-tribunals

NICTS welcomes your comments or suggestions on any aspect of our services.

Other Information

Review

We will review these guidelines from time to time and issue revised versions as necessary. The review process will invariably include consultation (unless the change is minor or statutory).

Equality of Opportunity

In line with the NICTS Equality Scheme these guidelines have been checked, and screened, for any potential equality impacts on the nine equality categories listed in section 75 of the Northern Ireland Act 1998. The equality screening exercise found that the guidelines will particularly benefit people under 18. This group has been identified as a vulnerable group within the Criminal Justice System and therefore any corresponding potential negative impact on other groups can be justified. The guidelines have therefore been screened out of the requirement for a full Equality Impact Assessment.

NICTS strives to deliver its service fairly to all court users, including those with particular needs. Staff at each venue are available to facilitate any particular access needs. In facilitating the particular needs of children the NICTS will be reliant on the children's representatives to identify these and liaise with the court staff to ensure that appropriate solutions can be put in place in advance.

NICTS promotes good relations with children in the community through various outreach initiatives involving staff and local children.

Comments/ Feedback

Any comments or feedback on the operation of these guidelines should be sent to Operational Support Branch, 4th Floor, Laganside House, 23-25 Oxford Street, Belfast BT1 3LA.

Courthouse Details

Antrim Court Office
Phone: 0300 200 7812

Limavady Court Office
Phone: 0300 200 7812

Armagh Court Office
Phone: 0300 200 7812

Lisburn Court Office
Phone: 0300 200 7812

Ballymena Court Office
Phone: 0300 200 7812

Londonderry Court Office
Phone: 0300 200 7812

Belfast Combined Courts
Phone: 0300 200 7812

Magherafelt Court Office
Phone: 0300 200 7812

Coleraine Court Office
Phone: 0300 200 7812

Newry Court Office
Phone: 0300 200 7812

Craigavon Court Office
Phone: 0300 200 7812

Newtownards Court Office
Phone: 0300 200 7812

Downpatrick Court Office
Phone: 0300 200 7812

Omagh Court Office
Phone: 0300 200 7812

Dungannon Court Office
Phone: 0300 200 7812

Strabane Court Office
Phone: 0300 200 7812

Enniskillen Court Office
Phone: 0300 200 7812

You can find full contact details for courthouses on our website at www.justice-ni.gov.uk/courts-and-tribunals

Should you require any further information about the NI Courts and Tribunals Service please visit our website at www.justice-ni.gov.uk/courts-and-tribunals or alternatively contact Operational Support Branch.

Northern Ireland Courts and Tribunals Service

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