

PRACTICE DIRECTION

2/11

TRIAL OF CHILDREN AND YOUNG PERSONS IN THE CROWN COURT

1. This Practice Direction applies to trials of children and young persons (that is to say, those under 18) in the Crown Court. Effect should be given to it forthwith. In it children and young persons are together called “young defendants”. The singular includes the plural and the masculine the feminine.

2. The steps which should be taken to comply with this Practice Direction should be judged, in any given case, taking account of the age, maturity and development (intellectual and emotional) of the young defendant on trial and all other circumstances of the case.

The overriding principle

3. Some young defendants accused of committing serious crimes may be very young and very immature when standing trial in the Crown Court. The purpose of such trial is to determine guilt (if that is in issue) and decide the appropriate sentence if the young defendant pleads guilty or is convicted. The trial process should not itself expose the young defendant to avoidable intimidation, humiliation or distress. All possible steps should be taken to assist the young defendant to understand and participate in the proceedings. The ordinary trial process should so far as necessary be adapted to meet those ends. Regard should be had to the welfare of the young defendant as required by Section 53(3) of the Justice (Northern Ireland) Act 2002.

Before the trial

4. Court Offices should promptly bring to my attention any serious or complex Crown Court case involving a young defendant. I shall assign a judge to take responsibility for the case. The judge so assigned will hold such preliminary hearings and give such directions as are necessary to give effect to paragraphs 9 to 15 below.

5. If a young defendant is indicted jointly with an adult defendant the court should consider at an early stage whether the young defendant should be tried on his own and should ordinarily so order unless of the opinion that a joint trial would be in the interests of justice and would not be unduly prejudicial to the welfare of the young defendant. If a young defendant is tried jointly with an adult the ordinary

procedures will apply subject to such modifications (if any) as the court may see fit to order.

6. Arrangements should be made for a young defendant to visit, out of court hours and before the trial, the courtroom in which the trial is to be held so that he can familiarise himself with it.

7. If any case against a young defendant has attracted or may attract widespread public or media interest, the assistance of the police should be enlisted to try and ensure that a young defendant is not when attending for the trial, exposed to intimidation, vilification or abuse.

8. The court should be ready at this stage (if it has not already done so) to give a direction under Article 22 of the Criminal Justice (Children) (NI) Order 1998 or, as the case may be, section 45 of the Youth Justice and Criminal Evidence Act 1999. Any such order, once made, should be recorded on ICOS and copies should on request be made available to anyone affected or potentially affected by it.

The Trial

9. The trial should, if practicable, be held in a courtroom in which all the participants are on the same or almost the same level.

10. A young defendant should normally, if he wishes, be free to sit with members of his family or others in a like relationship and in a place which permits easy, informal communication with his legal representatives and others with whom he wants or needs to communicate.

11. The court should explain the course of proceedings to a young defendant in terms he can understand, should remind those representing a young defendant of their continuing duty to explain each step of the trial to him and should ensure so far as practicable that the trial is conducted in language which the young defendant can understand.

12. The trial should be conducted according to a timetable which takes full account of a young defendant's inability to concentrate for long periods. Frequent and regular breaks will often be appropriate.

13. Robes and wigs should not be worn unless the young defendant asks that they should or the court for good reason orders that they should. In so far as is possible any person responsible for the security of a young defendant who is in custody should not be in uniform. There should be no recognisable police presence in the courtroom save for good reason.

14. The court should be prepared to restrict attendance at the trial to a small number, perhaps limited to some of those with an immediate and direct interest in

the outcome of the trial. Arrangements for youth courts provide a guide. The court should rule on any challenged claim to attend.

15. Facilities for reporting the trial (subject to any direction given under the provisions in paragraph 8 above) must be provided. But the court may restrict the number of those attending the court room to report the trial to such number as is judged practicable and desirable. In ruling on any challenged claim to attend the courtroom for the purpose of reporting the trial the court should be mindful of the public's general right to be informed about the administration of justice in the Crown Court. Where access to the court room by reporters is restricted arrangements should be made where possible for the proceedings to be relayed, audibly and if possible visually, to another room in the same court complex to which the media and public have free access if it appears that there will be a need for such additional facilities. If there is a video link, cameras should be discreetly positioned.

16. Where the court is called upon to exercise its discretion in relation to any procedural matter falling within the scope of this Practice Direction but not the subject of specific reference, such discretion should be exercised having regard to the principles in paragraph 3 above.

Appeal and committals for sentencing

17. This Practice Direction does not in terms apply to appeals and committals for sentence, but regard should be paid to its principles if the arrangements for hearing any appeal or committal might otherwise be prejudicial to the welfare of the young defendant.

Revocation

18. This Practice Direction revokes and replaces Practice Direction 2/00 – Trial of children and young persons in the Crown Court.

The Right Honourable Sir Declan Morgan
Lord Chief Justice

14 February 2011

