



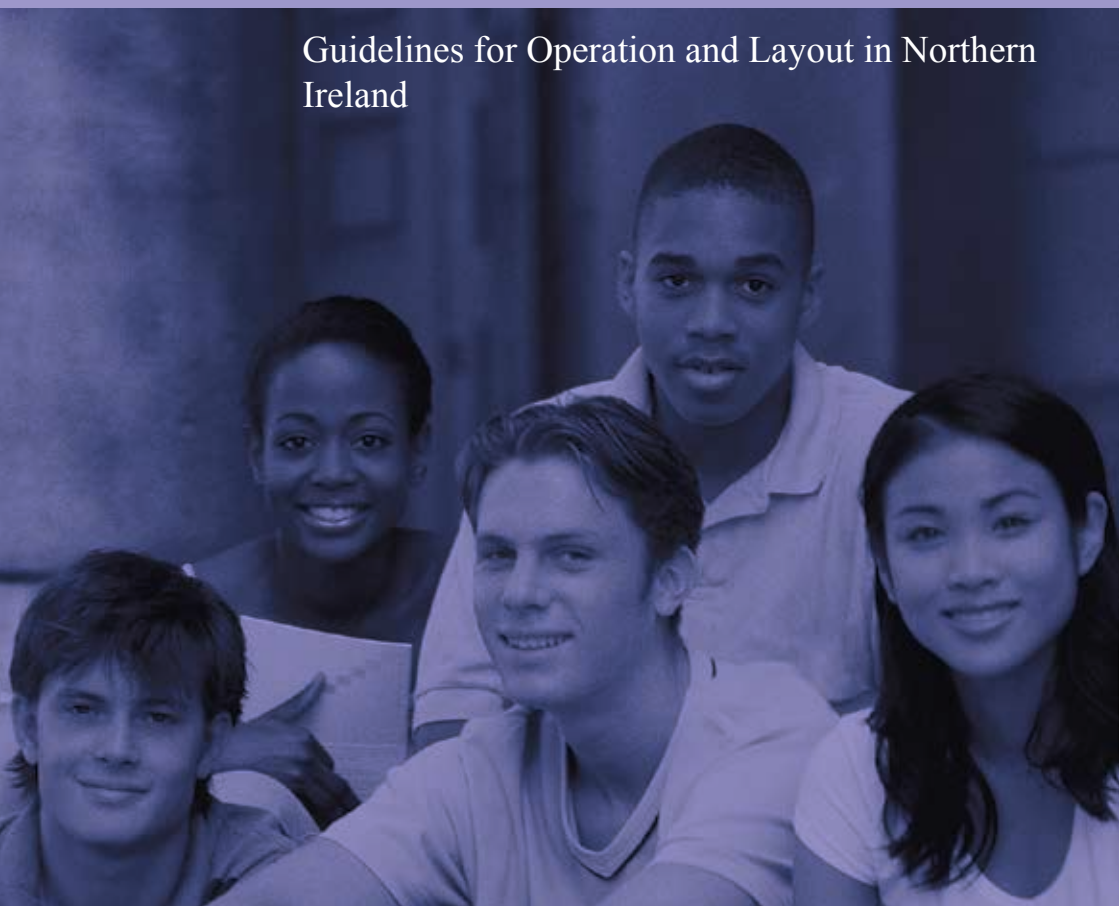
Northern Ireland

Courts and
Tribunals Service

www.courtsni.gov.uk

The Youth Court

Guidelines for Operation and Layout in Northern
Ireland



An Agency within

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serving the community through
the administration of justice

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Foreword by Sir Declan Morgan Lord Chief Justice

I am delighted to endorse this greatly anticipated set of revised guidelines for the operation of Youth Courts in Northern Ireland.



The guidelines bring up to date those issued in 2006. They take into account the outcome of a comprehensive review of the Youth Justice system in particular having regard to the on-going need to ensure that the rights of children are maintained as paramount and that our youth courts are fully compliant with ECHR fair trial provisions.

Any improvement which can be made to the Youth Court system is always welcome. While we as judges endeavour to ensure that those within the system are treated fairly and efficiently, it is an unfortunate reality that unnecessary delay continues within the system. When such delay effects the lives of children, one of the most vulnerable groups that come before our courts, all of us within the justice system have a responsibility to ensure improvements are made.

I believe that these revised guidelines lead the way for improvement. I commend the guidelines and will be monitoring closely the impact they make.

Sir Declan Morgan
Lord Chief Justice of Northern Ireland

Introduction

One of the recommendations of the Review of the Youth Justice System in Northern Ireland (September 2011) was 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”.

In response, Northern Ireland Courts and Tribunals Service (NICTS) has, in conjunction with the judiciary, reviewed and revised the Youth Court Guidelines, which were initially developed in response to a recommendation in the Criminal Justice Review.

The Youth Justice Review Team considered that the content of the Guidelines was generally adequate, and no major operational changes have been introduced in this revised version. The terminology has however been updated in places 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).

A further recommendation of the Review Team was that a single youth court jurisdiction is created for the whole of Northern Ireland and while this may change the way that youth courts would be organised and scheduled, its creation would not affect the way they should operate, and these guidelines will still apply. NICTS intends to use the publication of the revised guidelines as an opportunity to monitor how they are applied in court, and to promote adherence among all those involved in the youth court and has developed an implementation plan to take forward this work.

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 woman). 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 Lay Magistrates 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 16 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

Each court office has a Customer Service Officer who can provide information and general advice. A list of each court venue and their contact telephone numbers are set out on page 18. Alternatively you can visit our website at www.courtsni.gov.uk.

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 Customer Service Officer 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 on one of the following numbers:

Craigavon: (028) 3835 1849

Antrim: 028) 9448 7533

Belfast: (028) 9024 0847

Londonderry: (028) 7127 9555

At the Youth Court

Entrances and Waiting Areas

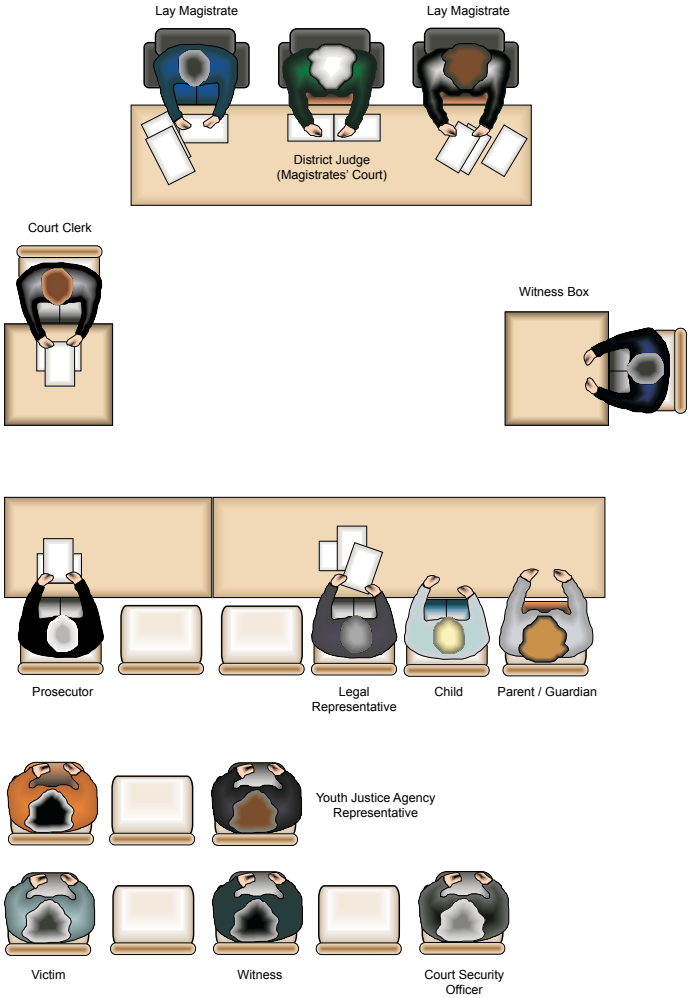
Youth courts usually take place on days when other courts are not in operation or are taking place in other parts of the courthouse. However, when other courts are sitting, Court Administrators should, where possible, make sure that those attending the youth court do not come into contact with people 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. Research has shown that the physical court environment - the type of furniture, layout and seating arrangements – can influence

Typical Youth Court Layout



communication. It can help people to play an active part in the process or can prevent people from feeling involved. Moving the District Judge (Magistrates' Court) 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 District Judge (Magistrates' Court) 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 District Judge (Magistrates' Court) 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 normally, if they prefer, 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. However at some venues all participants sit around a table.

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 District Judge (Magistrates' Court) and Lay Magistrates should introduce themselves and other people present and make sure throughout the hearing that everyone involved understands what is happening. The District Judge (Magistrates' Court) 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 District Judge (Magistrates' Court) 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 he or she is 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.

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 should be attached to the entrance door of the court to say who may be permitted access. The District Judge (Magistrates' Court) 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 District Judge (Magistrates' Court) orders otherwise, in particular the District Judge (Magistrates' Court) should consider if a child needs to attend review hearings. The District Judge (Magistrates' Court) and Lay Magistrates should ensure, if a child attends for a hearing, that he or she is present in court when their case is being dealt with. If a child is being held in custody the court should wait until he or she is in the courtroom before dealing with his or her 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.

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;
- making a complaint about NICTS - a guide for children and young people; and
- attending as a witness in a criminal court.

This information is available at all courthouses or on our website (www.courtsni.gov.uk). 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. Customer Service Officers at each venue are available to facilitate particular access needs. In facilitating the particular needs of children the NICTS will be reliant on the children's representatives to identify particular needs 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 Central Business Unit, 4th Floor, Laganside House, 23-25 Oxford Street, Belfast BT1 3LA.

Courthouse Contact Numbers

Antrim Court Office
Phone: 028 9446 2661

Enniskillen Court Office
Phone: 028 6632 2356

Armagh Court Office
Phone: 028 3752 2816

Lisburn Court Office
Phone: 028 9267 5336

Ballymena Court Office
Phone: 028 2564 9416

Londonderry Court Office
Phone: 028 7136 3448

Belfast Combined Courts
Phone: 02890 724570

Magherafelt Court Office
Phone: 028 7963 2121

Coleraine Court Office
Phone: 028 7034 3437

Newry Court Office
Phone: 028 3025 2040

Craigavon Court Office
Phone: 028 3834 1324

Newtownards Court Office
Phone: 028 9181 4343

Downpatrick Court Office
Phone: 028 4461 4621

Omagh Court Office
Phone: 028 8224 2056

Dungannon Court Office
Phone: 028 8772 2992

Strabane Court Office
Phone: 028 7138 2544

You can find full contact details for courthouses on our website at www.courtsni.gov.uk

Magherafelt courthouse is open on court hearing days which are currently every 1st, 2nd, 3rd and 4th Wednesday and the 1st and 3rd Monday of each month. Calls should be made to Londonderry courthouse on all other days.

Strabane courthouse is open on court hearing days which are currently every Thursday and every 1st, 2nd, 3rd and 4th Friday and every 5th Wednesday of each month. Calls should be made to Omagh courthouse on all other days.

Should you require any further information about the NI Courts and Tribunals Service please visit our website at www.courtsni.gov.uk or alternatively contact Communications Group.

Northern Ireland Courts and Tribunals Service
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Laganside House
23-27 Oxford Street
Belfast BT1 3LA

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Fax: 028 9072 8942
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