

HM Inspectorate of Court Administration

HMICA thematic inspection of Youth Courts

Implementation of the
Youth Court Good Practice Guide 2001

Published March 2007

HM Inspectorate of Court Administration

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- report in public; and
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Contents

Chief Inspector's foreword

Executive summary	1
Section 1 Introduction	5
Section 2 Effective engagement with defendants and their parents or carers	9
Section 3 Courtroom layout facilitates good communication	15
Section 4 More open court processes to encourage community confidence in the Youth Courts	19
Section 5 There are effective systems to support the Youth Courts and provide a safe and secure environment for all users	25
Annexes	
Annex A HMCS responses to HMICA recommendations	33
Annex B Inspection framework and methodology	37
Annex C Youth Courts visited for this inspection	41
Annex D HMICA staff involved in this inspection	43
Annex E Youth Court Good Practice Guide 2001	45

Chief Inspector's foreword

As part of our 2006/07 inspection cycle, we were pleased to be invited by Her Majesty's Court Service to conduct a thematic inspection of Youth Courts which could be used to inform a review of the *Youth Court Good Practice Guide* which was issued in 2001.

The Crime and Disorder Act 1998 and the Youth Justice and Criminal Evidence Act 1999 made significant changes to the youth justice system. The *Youth Court Good Practice Guide 2001* was prepared jointly by the Home Office and the then Lord Chancellor's Department (now the DCA) to assist the Youth Courts in effectively contributing towards a reformed youth justice system. The *Good Practice Guide* has in its title 'The Changing Culture of the Youth Court' and I am satisfied that, overall, the culture of the Youth Courts has changed over the last five years. Certainly Inspectors found that young defendants are now very central to the proceedings and the language and style of the court process has changed to ensure this happens.

We were impressed with the hard work and dedication shown by everyone involved in the Youth Courts and Inspectors saw excellent examples from court staff throughout the inspection. We also found areas where this positive work could be enhanced and have made recommendations and suggestions to HMCS in relation to this, for example the early identification of young people with learning difficulties or disabilities.

An important area of the *Good Practice Guide* is in relation to the layout of the Youth Court. Many Areas have adopted an informal or semi-formal layout as suggested in the Guide, however some have retained formal Youth Courtrooms. Interestingly, Inspectors found good communication can take place despite the layout of the court and that the key element is the effectiveness of the person communicating rather than the layout.

One particular area where we found the *Good Practice Guide* had not had a great impact in the Youth Courts was that of 'more open court processes'. We found a lack of consensus on the desirability or benefits of more open Youth Courts and have suggested that this section of the guide should be reviewed in light of this.

In addition to the elements of the *Good Practice Guide*, Inspectors looked at whether there were effective systems in place to support the Youth Court and provide a safe and secure environment for all court users. A worrying finding under this criterion is the lack of clarity around responsibility for young people sentenced or remanded to local authority secure accommodation whilst still on court premises. The resultant uncertainty puts a vulnerable group of young people in danger and I make an urgent recommendation to HMCS in respect of this.

I would like to thank everyone involved in this inspection, in particular the HMCS staff who made our inspectors so welcome and the large numbers of magistrates and District Judges who took the trouble to respond to our request for their views.



Eddie Bloomfield

HM Chief Inspector of Court Administration

March 2007

Executive summary

- 1 This inspection was carried out during September and October 2006 and included visits to 21 Youth Courts across England and Wales. The objective was to evaluate the implementation of the *Youth Court Good Practice Guide* published in 2001. Evidence was gathered through advance written information, courthouse observation and interviews with staff, defendants and their parents or carers, and other stakeholders. This report does not comment on judicial decisions or other judicial issues.
- 2 In the report administrative findings are summarised against four criteria:
 - Effective engagement with defendants and their parents or carers.
 - Courtroom layout facilitates good communication.
 - More open court processes to encourage community confidence in the Youth Courts.
 - There are effective systems to support the Youth Courts and provide a safe and secure environment for all users.

Effective engagement with defendants and their parents or carers

- 3 This is mainly a judicial area; judgements are confined to administrative aspects only. Overall, the introduction of the *Good Practice Guide* has brought in a culture of engagement with defendants and their parents or carers. Young people and their parents or carers are generally included in the courtroom process and are assisted by court staff and other agencies to understand proceedings on the day. However, in most courts this positive work could be enhanced through:
 - procedures to identify young people who have learning difficulties, and guidance for staff on dealing with such young people
 - giving defendants and their parents or carers information that prepares them for court and ensuring that they understand the roles of all participants in the courtroom.

These gaps in procedure and provision mean that there may not be appropriate adjustment or facilitation made to the court process to ensure the young person fully understands what is going on.

- 4 There is a lack of guidance on the provision of interpreters for parents or carers attending Youth Court. This means there is a potential for people to be used inappropriately to interpret court proceedings.

Courtroom layout facilitates good communication

- 5 Inspectors found that good communication in the courtroom depends more on the person communicating than it does on the courtroom layout. The retention of a slightly raised Bench in some courtrooms, combined with a semi-formal layout has worked to good effect, resulting in the active participation of all parties and creating a good balance between informality, security and respect for the court process.

More open court processes to encourage community confidence in the Youth Courts

- 6 There is little evidence of court processes being more open as a result of the introduction of the *Good Practice Guide*. There is little external communication to ensure a greater understanding of the Youth Court by the wider community, with the exception of some court open days, which include mock Youth Court trials. However, no evidence has been found of any measurement of the link between more open court processes and increased community confidence in the Youth Courts. There is little proactive communication between Youth Courts and the media, and requests for reporting restrictions to be lifted are rare.
- 7 Victims, who are not necessarily witnesses, rarely attend the Youth Court. Although it is accepted that other agencies may be responsible for giving victims necessary information about hearings – there is a general view held by youth justice agencies that Youth Courts are closed courts and often there is a misunderstanding that this also excludes victims. We saw little evidence that Her Majesty’s Courts Service (HMCS) actively seeks to change this perception. On the rare occasion that a victim does attend, consideration and assistance are given by the court.

There are effective systems to support the Youth Courts and provide a safe and secure environment for all users.

- 8 There are effective administrative systems in place within HMCS to support the Youth Courts in all the Areas inspected. Generally, the court administration works well with relevant agencies to progress cases in a timely manner.
- 9 Youth waiting areas are separated from adult court waiting areas in most courthouses, although this can be compromised by the location of other, shared, facilities. Custody facilities for young defendants range from unacceptable to good and there is widespread confusion in the Youth Courts over who is responsible for young people, who have been remanded or sentenced to local authority secure accommodation, while they are on court premises awaiting escort. This has resulted in vulnerable young people being left unaccompanied and in unsuitable accommodation.
- 10 Prison video-link facilities are not often identified as an option for young people in custody who have to make long journeys to the court. Sometimes this is because of a lack of equipment, but sometimes it is because the rules for the use of such equipment have been misunderstood.
- 11 The recommendation from the Mubarek Inquiry¹, concerning documents to be attached to custody warrants, has not been effectively implemented in all Youth Courts.
- 12 Safety and security in many Youth Courts is inadequate, and assessment of risk is weak. We have given details of this in a confidential annex to HMCS and asked them to look at this as part of their *Safe and Secure* policy.

¹ Report of the Zahid Mubarek Inquiry, 29 June 2006.

Recommendations and suggestions to HMCS

Recommendation 1

That HMCS ensure appropriate pre-court information that sufficiently prepares young defendants and their parents/carers for an appearance at court is available and effectively disseminated.

Recommendation 2

That HMCS work with other agencies to ensure that appropriate facilitation and adjustments are made to the court process for young people with learning difficulties by:

- facilitating early identification in the court process of such young people, and
- ensuring that court staff have the knowledge and understanding to respond appropriately.

Recommendation 3

That, for young people remanded or sentenced to local authority secure accommodation, HMCS clarify responsibility for the young person whilst waiting for escort from the court, and ensure that its responsibilities are consistently met.

Recommendation 4

That HMCS ensure that all Youth Courts have effectively implemented the Mubarek Inquiry recommendation about specific information being provided with the custody warrant to the Prisoner Escort Custody Service (PECS).

Recommendation 5

That HMCS ensure all Youth Courts comply fully with the *Safe and Secure* policy.

Suggestion 1

That HMCS give guidance on the interpreter arrangements for parents/carers attending with youth defendants, to ensure that court proceedings are interpreted appropriately.

Suggestion 2

That HMCS work with other agencies to ensure that victims are aware that they are able to make a request to attend the Youth Court, and to facilitate this attendance wherever possible.

Suggestion 3

That HMCS work with the judiciary to review the section of the *Good Practice Guide* that covers press engagement and greater openness of court processes.

Suggestion 4

That HMCS work with the judiciary to review and clarify the rules in relation to the use of prison video-links for pre-trial hearings in the Youth Court.

Section 1

Introduction

- 1.1 The principal aim for the ‘youth justice system’ as set out in the Crime and Disorder Act 1998 – including courts, local authorities, health authorities, the probation service and the police – is “*to prevent offending by children and young persons*”.
- 1.2 Most defendants under 18 are dealt with in the Youth Court by specially trained magistrates or by a District Judge².
- 1.3 A child or young person will not be tried in a Youth Court if they are charged with: murder or manslaughter (these cases always go to the Crown Court for trial); a very serious offence, such as robbery, and the Youth Court considers that the greater sentencing powers of the Crown Court may be needed; or jointly with an adult – these cases are heard in the adult magistrates’ court or the Crown Court.
- 1.4 There are several important differences between the adult and youth courts, for example, unlike the adult magistrates’ courts and the Crown Court, which are usually open to the public, the law restricts right of access to the Youth Court to:
 - members and officers of the court
 - both sides involved in the case and their legal representatives
 - witnesses
 - other people directly involved in the case, and
 - members of the media (the media may report the proceedings but may not normally identify any young people involved in the case).However, the court may specifically authorise other persons to be present.
- 1.5 Different arrangements for oath-taking apply because there are different expectations in the experience and understanding of participants in youth cases.
- 1.6 A parent or guardian may be required to attend court with any young defendant, and **must** attend if the defendant is under 16.
- 1.7 Children and young persons must be kept apart from adults charged with any offence while at police stations, courthouses or when being conveyed between those premises, unless the adult is a relative or a person jointly charged.
- 1.8 The *Youth Court Good Practice Guide* was issued in March 2001 following the Government White Paper, *No More Excuses – A New approach to Tackling Youth Crime In England and Wales* (Cm 3809). Changes outlined in the White Paper, and enacted by legislation³, were

² District Judge, in the context of this report, means District Judge (Magistrates’ Court).

³ The Crime and Disorder Act 1998 and the Youth Justice and Criminal Evidence Act 1999 (now consolidated in the Powers of Criminal Court (Sentencing) Act 2000).

intended to ensure that the youth justice system would be efficient and effective, that it would have a clear sense of purpose – that of preventing offending by young people – and that it would have the full confidence of the public and all those who come into direct contact with it. The *Good Practice Guide* accepted that the legislative changes were a watershed and pointed out that building a more effective Youth Court within a reformed youth justice system would make a powerful contribution to that system.

- 1.9 The *Youth Court Good Practice Guide* was issued jointly by the Home Office and the, then, Lord Chancellor’s Department following consultation with judicial and other partners. It drew together the good practice developed during a pilot project and made a number of suggestions for Youth Courts, based on the project experience⁴.
- 1.10 HMCS has decided that, five years after implementation, it is right to review the *Good Practice Guide*. HMICA was invited to conduct an inspection in this area, the results of which could be used to inform the review⁵. At the same time the senior judiciary requested that Inspectors gather and pass on the views of magistrates and legal advisers about judicial aspects of the *Good Practice Guide*.
- 1.11 During September and October 2006, 21 Youth Courts⁶ were visited across England and Wales, including metropolitan, urban and rural Youth Courts. Evidence was gathered through briefing materials supplied by each court, observation in the courthouse and the courtroom, and interviews – with court staff, defendants and their parents or carers, external stakeholders such as solicitors and also Youth Justices and legal advisors. In addition, we invited comments from the general public through posters displayed at courthouses, and through press and media coverage. Feedback on individual Youth Courts in HMCS Areas was given to Area Directors, and information posters setting out our key findings have been circulated to all Youth Courts included in this inspection.

During the inspection we looked at:

The implementation of the *Youth Court Good Practice Guide 2001* – greater openness, engaging directly with the offender, feedback on the effectiveness of sentencing and a less adversarial setting, and whether this has been undertaken successfully and the Youth Courts provide an environment that supports effective delivery.

This report covers the following key areas:

- Effective engagement with defendants and their parents or carers.
- Courtroom layout facilitates good communication.
- More open court processes to encourage community confidence in the Youth Courts.
- There are effective systems to support the Youth Courts and provide a safe and secure environment for all users.

Further details of the focus of the inspection are shown in Annex B.

⁴ Background taken from the *Youth Court Good Practice Guide 2001 – Introduction, Home Office Research Study 214 – Evaluation of the Youth Court Demonstration Project* – Allen, Crow and Cavadino.

⁵ Methodology at Annex B.

⁶ Details in Annex C.

Going to Court for the first time – case study – the experience of young defendants (taken from a composite of interviews with young defendants)

“I had not been to court before and was a bit frightened. So was my mum. We got a letter telling us where to come, and we had to get there at 9.00 am. We had to come by bus and we sort of knew where the court was, but we had never been there. We weren’t sure what entrance to go in.”

“We found a man on the door, who told us where to go and said we should wait until the usher came and found us – I wasn’t sure what an usher was, but he said we would know because they would be wearing a black cloak like old fashioned teachers wear. The man on the door searched my mum’s bag and we had to go through an airport thingy [security arch].”

“We found where we had to wait. There were quite a few people there already. We seemed to wait for ages. The usher came over and asked for my name and ticked me off a list. She said it shouldn’t be long and she would come and get me and my mum when it was our turn. She asked if I wanted to see the duty solicitor – my mum said perhaps we should, so the usher said she would tell him.”

“Waiting was horrible. It seemed like ages and ages. It was worse than going to the dentist. I was feeling sick and hungry all at the same time. We went off to find something to eat. It was quite far away from where we were waiting. We had to walk past lots of grown ups who were waiting as well. We got some crisps and coke from a machine.”

“When we got back to the waiting room I was worried that we might have been called to go in, but mum asked the usher and it was okay. A man came up and said he was the duty solicitor. We went into a little room with him and talked about why I was there. He said he would be in the courtroom with me and he would put my side of the story. Then we just waited and waited. There wasn’t much to do. I was playing a game on my mobile and some man said I wasn’t allowed a phone in court so I had to switch it off. Finally the usher came out and said it was my turn. We were nearly the last people in the waiting room.”

“We followed the usher into the courtroom. It wasn’t as big or as dark as I thought it would be. There were a lot of people though and they were all looking at me and my mum. I felt like crying. The usher showed us where to sit. We could sit together. It was just an ordinary table. Everyone was just sitting at ordinary tables. I think I did understand most of what was going on. People kept asking me if I understood. They did use some big words, which I didn’t really understand, but most of the time someone would say it again in another way.”

“I was a bit worried about all the different people in the room. I didn’t know what they all did, although I did guess some of them, like the judges [magistrates] and I knew the duty solicitor because he had talked to us before. I got a bit mixed up about standing up and sitting down. So did my mum. The judges [magistrates] were quite nice and the middle one spoke to me and my mum quite a lot. By the end I was okay. I had to go and speak to a man [Youth Offending Team] afterwards who told me what would happen next.”



Section 2

Effective engagement with offenders
and their parents or carers

Section 2

Effective engagement with defendants and their parents or carers

We looked at: whether plain language is used in the courtroom and whether defendants and their parents/carers were active participants of the proceedings; whether all defendants, including those in custody, received information before, during and after the hearing; and whether effective arrangements were in place to ensure that those with languages other than English could understand and participate in the proceedings.

Direct engagement

- 2.1 This part of the *Good Practice Guide* covers essentially judicial issues. We report here on administrative aspects only. Overall, the introduction of the *Good Practice Guide* has brought in a culture of engagement on the day with defendants and their parents or carers. Young people are central to the proceedings and, in most courts, Inspectors found that they and their parents/carers are included. Inspectors were informed that young people used to be talked about or over, but now they are generally spoken and listened to during the proceedings. We found that court staff treat both young defendants and their parents/carers with respect and show a great deal of care and consideration on the day.
- 2.2 Importantly, young defendants and their parents/carers are assisted by court staff and other agencies to understand proceedings on the day. Inspectors saw good examples of the use of plain English in most of the courts visited. Young people were asked throughout the proceedings whether they understood what was going on and, generally, clear explanations of terminology and legal phrases were given when needed. For example, the prosecutor was described in several courts as “*the person who is going to tell us why the police arrested you*” and witness testimony was described as “*this person is going to give their side of the story*”.
- 2.3 We consider that these welcome outcomes could be developed by addressing the following issues.

Issue 1

- 2.4 Young defendants and their parents/carers informed Inspectors that they did not receive any useful information from any source prior to attending court. Nor was there encouragement to make early contact with regard to their own needs and requirements. The impact of this is that young people and their parents/carers are unprepared, especially for a first court appearance. The court is also often unprepared to deal with any difficulties or special needs. In only one court did we find a really positive attempt to provide effective preparatory information.

Good practice

Inspectors saw an excellent example of preparatory information available to young defendants and their parents/carers. HMCS West Mercia have worked with others to produce an informative *Youth Justice Pack* that comprises the following leaflets:

- *Letter to parents/carers*. What they should do
- *Guilty or Not Guilty*. Being honest and how to plead
- *Legal Representation – A Solicitor – Do I need one?* How to find one
- *Going to Court*. Being prepared, disability or special requirements, what to bring and what happens on the day.

Each leaflet has a 'your questions answered' section and the whole pack stresses the importance of attending court at the date and time advised. A translation service is also offered.

Recommendation 1

That HMCS ensure appropriate pre-court information that sufficiently prepares young defendants and their parents/carers for an appearance at court is available and effectively disseminated.

Issue 2

- 2.5 There are only ad hoc procedures in place to identify young people who have learning difficulties. Inspectors found that there is a reliance on other agencies, such as the defence or Youth Offending Teams (YOTs), to inform the court if a young defendant has learning difficulties, but no clear process or procedure to ensure that this has been done. Hence, such difficulties often only come to light on the day or during the hearing. They might not come to the attention of the court at all, particularly if there has been no encouragement for young defendants or their parents/carers to make early contact regarding their own needs and requirements. There were concerns raised by some YOTs that the impact of some learning difficulties means that a young person might not be able to 'give good account of themselves' and this might work against the young person in court proceedings. There is the possibility that such a young person may not engage with the process, despite efforts by court staff. As set out in the *Good Practice Guide*, engagement should be a priority and it is vital that a young person is given every opportunity to understand and participate in the process.
- 2.6 The variety of personal support needs across the range of learning difficulties through to learning disabilities is vast and there is limited understanding of this by court staff (and other agencies). Without an understanding of the depth of the problem and therefore, the likely effect on behaviour and understanding, court staff cannot be expected to make appropriate provision or communicate effectively.

Recommendation 2

That HMCS work with other agencies to ensure that appropriate facilitation and adjustments are made to the court process for young people with learning difficulties by:

- facilitating early identification in the court process of such young people, and
- ensuring that court staff have the knowledge and understanding to respond appropriately.

Issue 3

- 2.7 Good clear court layout plans were on display in waiting areas or entrances in most Youth Courts inspected, and these could be supported by effective function plates giving the title/role of the different participants in the courtroom. Many Youth Courts told us that they used function plates after the introduction of the *Good Practice Guide* in 2001. However, Inspectors saw very limited continuing use of these during this inspection.
- 2.8 Additionally, although what is happening in the proceedings is explained, young defendants are not always made aware of the roles of all participants in the courtroom. Introductions are not always made when cases begin and there is often an assumption that other agencies will have given the young person information on the roles of participants in the courtroom. Also, when a young defendant is appearing in court for a second or subsequent time, the assumption is regularly made that they do not need to be reminded of the roles of all participants.

Good practice

Large, clear, moveable function plates in the youth courtroom in Newport (Isle of Wight) and Liverpool, supported by clear court layout plans in the waiting area.

Unrepresented defendants

- 2.9 There are currently a few unrepresented defendants in the Youth Court. However, they are given appropriate help and assistance on the day by court staff. Importantly, Inspectors observed in all but a few courts that staff ensured they are not disadvantaged; for example, by not having to wait longer than everyone else.

Interpreter arrangements

2.10 Interpreter arrangements for young defendants are effective across all courts inspected. The *Good Practice Guide* places significant emphasis on the involvement of parents and carers in court proceedings. However, there is a lack of guidance on responsibility for the provision of interpreters for parents/carers attending Youth Court. Where neither the young person nor the parent/carer can speak English, interpreters can interpret for both. However, there are occasions when the young person is able to speak English, but the parent/carer cannot. Inspectors noted that several Youth Courts were prepared to use friends or relatives to interpret for parents or carers during proceedings. Inspectors consider that this lack of clarity poses the risk that proceedings may be affected by:

- unreliable interpretation
- parents or carers not having an interpreter and being excluded from proceedings
- avoidable adjournments, leading to delay.

Suggestion 1

That HMCS gives guidance to Youth Courts on interpreter arrangements for parents/carers attending with youth defendants, to ensure that court proceedings are interpreted appropriately.



Section 3

Courtroom layout facilitates good communication

Section 3

Courtroom layout facilitates good communication

We looked at the physical court environment to see whether it fostered good communication to encourage an active role from all participants. We also looked at how well young defendants in custody were able to engage in the court process and whether the court was able to provide facilities for witnesses using Special Measures.

Layout

- 3.1 The *Good Practice Guide* encourages Youth Courts to adopt a more informal layout, where parties are on or near the same level, to maintain eye contact more easily and so help the engagement process.
- 3.2 Types of Youth Court layout observed:
- Informal – where parties are all on the same level (including the magistrates or District Judge) and where furniture is situated in a square or round formation. Furniture is usually free-standing.
 - Semi-formal – where parties are all on the same level with the exception of the magistrates, who sit slightly raised. Furniture, apart from the Bench, is situated in a square or horseshoe formation facing the Bench. Furniture can be fixed or free-standing.
 - Formal – adult layout, with a raised Bench and formal arrangement of fixed furniture facing the Bench.
- 3.3 We found that informal and semi-formal courtroom layouts work well to facilitate good communication. However, a formal courtroom layout can also work well. Inspectors saw a variety of all types of courtroom and our findings are that good communication can take place despite the layout of the court. The key element is the effectiveness of the person communicating rather than the layout, although informal or semi-formal courtrooms usually facilitated this good communication.
- 3.4 The retention of a slightly raised Bench in some courtrooms, (a semi-formal layout) has worked to good effect, resulting in the active participation of all parties and a good balance between informality, security and respect for the court process.
- 3.5 Inspectors recognise that there are sometimes competing priorities between promoting engagement through a more informal court process, ensuring the security of all parties and promoting respect for the court. This is a difficult balance to strike and there were indications that security considerations were not always taken into account in making these decisions.

- 3.6 All courtrooms visited, whether informal, semi-formal or formal, had positioned virtually all defendants and their parents/carers to facilitate good communication. Oxford Youth Court is a good example of the use of a formal courtroom where consideration had been given to the placement of the young defendants and their parent/carer. In this case they sat in the front bench alongside the prosecuting lawyer and in front of the defence solicitor. Previously, the defence solicitor had sat alongside the prosecuting lawyer and in front of the young defendant, effectively blocking the view to and from the Bench.

Active participation of all parties

- 3.7 YOTs are a multi-agency team of professionals comprising social services, education, police, probation and health authorities (and sometimes other agencies such as local authority housing). Their work includes the provision of a supervision officer for young people who have been made the subject of a court order or community penalty⁷. Prior to this the YOT may have had involvement with the young person for a range of different reasons; for example, through intervention programmes for young people who have received a final warning from the police. YOT officers also provide a service to the Youth Court by writing reports on a young person.
- 3.8 The location of YOT staff in some courtrooms does not always promote their full involvement in the proceedings; for example, by not being included in 'the round' in an informal layout. In several courts, the YOT officers have a desk in the corner of the courtroom, apart from the rest of the participants. This has the effect of distancing the YOT from the proceedings and potentially limiting the assistance that may be offered to the court. However, in some courts, even when the courtroom was arranged formally, Inspectors saw potential difficulties overcome by the thoughtful use of space. In one formal court layout, for example, YOT officers were brought forward, close to the Bench and were therefore able to be actively involved in the proceedings.

Use of secure dock

- 3.9 Not all Youth Courts have a secure dock. When a secure dock is used in the Youth Court there is acceptance that communication will be more difficult. Not all courts fully think through how best to facilitate engagement with the defendant. For example, at one court the TV link monitor was situated in front of the secure dock and several did not have microphones or sound systems within the dock (or they were not switched on) making it difficult for the young person to hear. In one court the defendant could not even be seen by the Bench when sitting down in the dock.

Special measures

- 3.10 Inspectors also looked at the provision of special measures, including video facilities and screens and were satisfied that Youth Courts are able to provide these when required. Although, in the case of video-links for witnesses, some Youth Courts did not have the necessary equipment and needed to move the Youth Court to a formal courtroom that could provide this. There are implications for effective engagement with the defendant when moving from an informal to a formal courtroom. However, as already stated in this report, some courts minimise problems with the thoughtful use of space.

⁷ The work of Youth Offending Teams is outlined in S38 of the Crime and Disorder Act 1998.



Section 4

More open court processes to encourage community confidence in the Youth Courts

Section 4

More open court processes to encourage community confidence in the Youth Courts

We looked at whether there was proactive engagement with the local media, whether victims were able to attend hearings, whether other people ever attend youth hearings and what sort of information about the Youth Court was available.

- 4.1 When the *Youth Court Good Practice Guide* was issued in 2001, one of the Government's objectives for the Youth Court was greater openness in proceedings because there had been a long-standing closed culture in the Youth Court, which had been described as 'the secret garden of the legal system'⁸.
- 4.2 Inspectors found little evidence that court processes are more open as a result of the introduction of the *Good Practice Guide*. In addition, there was no evidence of any measurement of the link between more open court processes and increased community confidence in the Youth Courts. Interviewees confirmed that such evaluation had not yet taken place at a local or national level. As an initial step it may be appropriate to undertake research to identify what benefits, if any, would result from opening up the courtroom. This could help to build a consensus on the desirability of opening up the Youth Courts.

Engagement with the press

- 4.3 There is little proactive communication between the Youth Courts and the media. Very few Youth Courts provide a dedicated press bench or seat in the courtroom, provide courts lists in advance to the press or have a nominated liaison point for media contact. There is a general feeling throughout the youth justice community that the media are not interested in positive news and any engagement might result in only negative reporting, damaging rather than raising public confidence.
- 4.4 Inspectors also noted that court staff were reluctant to approach the press with information about the Youth Court. For example, in one court, young defendants were given custodial sentences for a violent assault. Court staff were aware that such assaults were of concern to the community and felt that wide press coverage would give a two-fold message; to reassure the public and to show that violent crime was not being tolerated by the court. However, court staff were not comfortable with approaching the press and therefore, the story was not reported. The *Youth Court Good Practice Guide* was published before HMCS came into being in April 2005. Previously, there were 42 independent Magistrates' Courts Committees (which were responsible for the Youth Courts). HMCS has a central Press Office which can assist court staff. The Press Office has recently developed a set of guidelines for the courts covering all aspects of press engagement. The new HMCS Press Office and press guidelines should, potentially, increase the capacity of Youth Courts to deal with the press more effectively.

⁸ Rt Hon Jack Straw (1997).

- 4.5 However, a few courts provided excellent examples of engagement with the media. For example, Swansea Youth Court has a good relationship with the local press, which was used to the benefit of the court during a murder trial that generated a lot of attention and emotion. There had been considerable disruption by the public during a previous hearing when the young defendants had been produced from custody. Following contact from court staff, the press ran a story saying that, at the next hearing, the defendants would not be appearing at the court in person. This had the effect of keeping any crowds away.

“My week in the Youth Court of the West London Magistrate’s Court was fascinating. I was given complete access: I sat next to the [District] Judges in the courtrooms, spent time in their rooms and had every opportunity I desired to speak to other court staff. As a result, my article was informed, thorough and balanced.

However, I was very aware that what I was being given was an unusual privilege. I had been invited behind the scenes as a personal favour by the judges themselves. What would I have been told had I made my request through official channels? I don’t know for certain but I suspect I would have been received with suspicion and, if not a refusal, then a level of access so controlled that it would not have been worth my time attending.”

Amelia Hill (Culture and Society Correspondent, The Observer) commenting to Inspectors about her visit to a West London Youth Court.

Lifting reporting restrictions

- 4.6 In youth proceedings there is an automatic ban on the media reporting anything that might lead to the identification of a witness, defendant or other party in the proceedings who is under 18 years old. The restrictions include the naming of schools and addresses and the showing of pictures of a person under 18⁹. The Youth Court has the power to order the lifting of reporting restrictions to any extent, in relation to a young person who has been convicted, if it is satisfied that it is in the public interest to do so. We found that requests from the press for the lifting of reporting restrictions are rare, with the exception of high profile cases. We found that the press also tend to report on Anti-Social Behaviour Orders (ASBOs), when reporting restrictions have not been put in place.¹⁰ Inspectors talked to members of the press in order to understand their perspective on court reporting. Inspectors were told that reporters do not make applications for the lifting of reporting restrictions in the Youth Court because they believe that restrictions will not normally be lifted as the courts protect the identity of young defendants.

⁹ S49 Children and Young Persons Act 1933.

¹⁰ Reporting restrictions do not automatically apply to ASBO's and breaches of ASBO's in proceedings relating to youths.

Victims at court

- 4.7 Victims, who are not necessarily witnesses, do not often attend the Youth Court. Evidence from YOT victim liaison officers indicates that victims are not always aware that they can make a request to attend. Other agencies may be responsible for giving victims information about hearings. There is general acceptance among youth justice agencies that Youth Courts are closed courts and often there is the misunderstanding that this also extends to victims. HMCS can play a part in promoting attendance at court by victims, by ensuring that other agencies are aware that victims are able to attend. On the rare occasion a victim who is not giving evidence does wish to attend, consideration and assistance is given by the court.
- 4.8 Inspectors were informed that, at one court, the young victim of a serious assault turned up at the court on the morning of the trial and expressed a wish to observe the proceedings. The court had not been informed in advance but court staff spent a great deal of time with the young person to ensure that this was appropriate and that support was available (through the Witness Service/Victim Support). In the event, the young person did not observe the proceedings, having discussed the matter with court staff and Victim Support. Instead, the victim remained on the court premises (in the care of Victim Support) and was regularly updated throughout the proceedings by court staff.

Suggestion 2

That HMCS work with other agencies to ensure that victims are aware that they are able to make a request to attend the Youth Court, and to facilitate this attendance wherever possible.

- 4.9 There is only limited information available on the Youth Court process for any potential participant, although Inspectors found that witnesses are usually well informed and looked after on the day by court staff and the Witness Service.

Understanding the Youth Courts

- 4.10 There is little external communication to ensure a greater understanding of the role of the Youth Court by the wider community. However, in some areas we found that court open days included mock trials in the Youth Court (in addition to the adult court) and these had proved very popular with the public, particularly where a question and answer session was included. In one court, the sons and daughters of court staff (and staff from other agencies) played the part of young defendants and witnesses, whilst court staff, YOT, defence and Crown Prosecution Service all took part – the event was extremely well attended and had good local media coverage. Because the section of the *Good Practice Guide* covering press engagement and more open court processes appears to have had less impact than some of the others, we have made a suggestion that further thought is given to it.

Suggestion 3

That HMCS work with the judiciary to review the section of the *Good Practice Guide* that covers press engagement and more open court processes.



Section 5

There are effective systems to support the Youth Courts and provide a safe and secure environment for all users

Section 5

There are effective systems to support the Youth Courts and provide a safe and secure environment for all users

We looked at: whether there were effective multi-agency arrangements in place to progress cases; whether custody facilities were age-appropriate and safe; whether levels of safety and security gave confidence to all Youth Court users; and whether waiting areas were separated from adult waiting areas and were safe, clean and comfortable.

Administrative systems

5.1 Generally, the court administration works well with relevant agencies to progress cases in a timely manner. Magistrates' court case progression officers impressed Inspectors with their commitment and enthusiasm towards youth case progression. In the majority of Youth Courts visited during this inspection, case progression staff take an active, and in some cases leading, role in regular multi-agency meetings to progress cases through the youth justice system. Such meetings typically involve the police, Crown Prosecution Service, YOTs and HMCS.

5.2 The value of effective case progression is evidenced by two sources of performance data:

A. The data from the Government's timeliness target for persistent young offenders (PYOs¹¹).

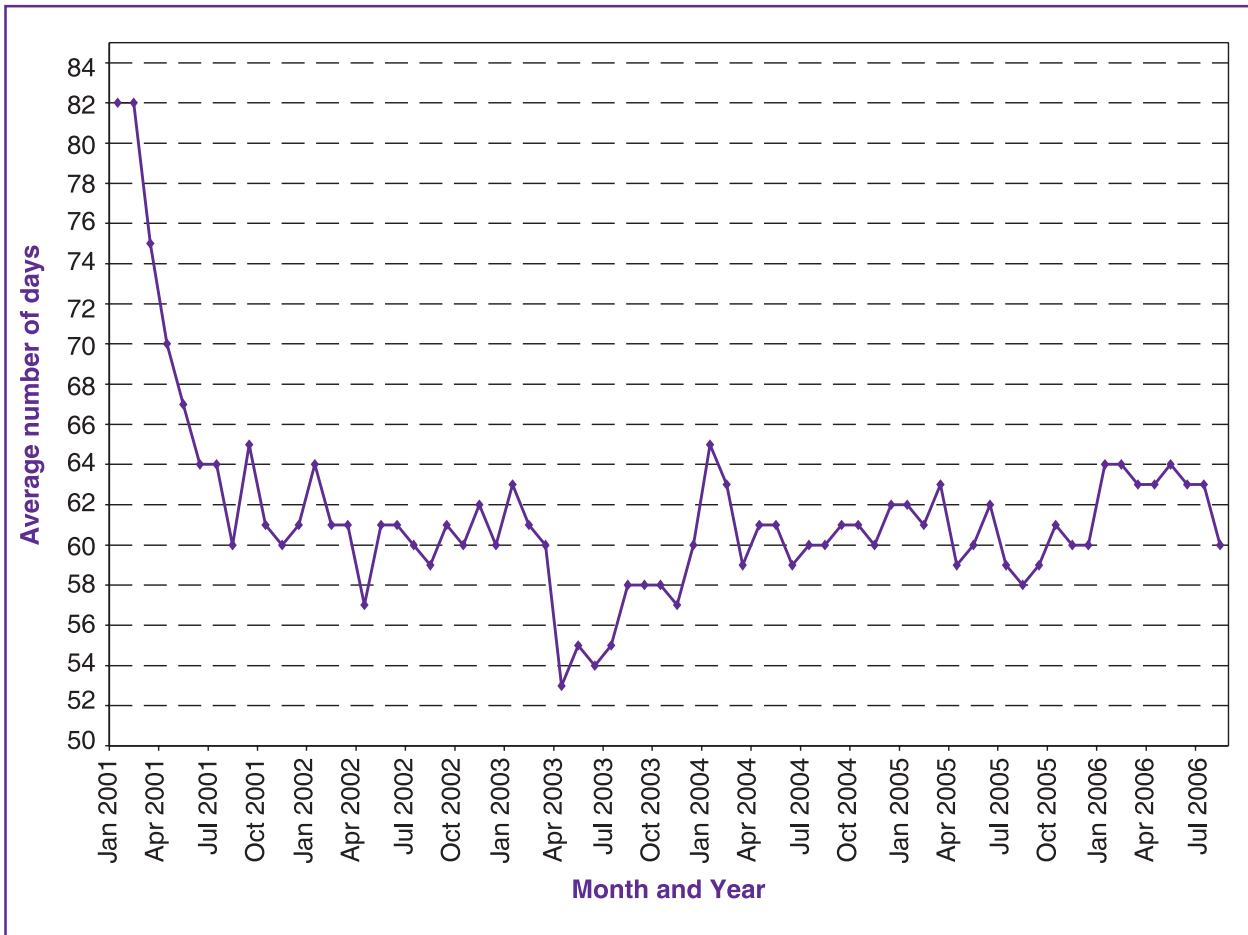
There is a long-standing national inter-agency pledge to complete a case from arrest to sentence within 71 days¹² and all Areas have regular case progression meetings to facilitate this. The figure below charts the average number of days from arrest to sentence for PYOs sentenced at magistrates' courts in England and Wales from January 2001 until July 2006. In order to achieve the 71 day target, it is recognised that magistrates' courts need to achieve approximately 60 days, because of longer running cases in the Crown Court. In January 2001 the figure stood at 82 days, this dropped sharply by the middle of 2001 to 57 days. Following a period of fluctuations in the data, since January 2006 performance has been steady with the England and Wales average (consistently in the low 60s) suggesting that performance at this level has been incorporated into the mainstream in some Areas.

¹¹ A PYO is a young person aged 10-17 years who has been sentenced by any criminal court on three or more separate occasions for one or more recordable offences, and within three years of the last sentencing occasion is subsequently arrested or has information laid against them for a further recordable offence.

¹² This is an historical target set as the Government pledge for PYOs in 1997 and includes both the Crown and magistrates' courts.

The pledge of 71 days covers several youth justice agencies (Police, Crown Prosecution Service, YOTs and HMCS). Although not all Areas are consistently reaching this target, Inspectors were satisfied that the courts visited as part of this inspection were working proactively towards it. Inspectors did not look at the effectiveness of other agencies in the process.

Figure 1 PYO timeliness – Average number of days from arrest to sentence for cases heard in magistrates’ courts in England & Wales (2001 - 2006)



B. Performance against national standards for the completion of all cases in Youth Courts.

The figure below shows performance as an England and Wales average from March 2005 until September 2006¹³. Areas are measured by HMCS against achieving 80% or more cases within the standards. The England and Wales average is consistently better than this.

Figure 2 Timeliness of all Youth Cases in magistrates' courts, England & Wales (percentage of cases within target).¹⁴

England & Wales	Initial guilty plea (National standard 59 days)	Trials (National standard 176 days)
Survey period	Percentage of initial guilty pleas completed within the standard of 59 days	Percentage of trials completed within the standard of 176 days
March 2005	87	87
June 2005	88	89
September 2005	88	90
December 2005	87	89
March 2006	87	87
June 2006	89	87
September 2006	89	87

5.3 In addition to regular case progression meetings, Inspectors were pleased to see court staff working well with other agencies to ensure that cases were dealt with efficiently on the day. For example, in many Youth Courts ushers were proactive in booking young people in and putting them in touch with their solicitor, social worker or YOT worker (when applicable) for an early meeting. Inspectors noted that ushers were particularly responsive to the needs of unrepresented young defendants; for example, ensuring that they were put in touch with the duty solicitor.

5.4 Inspectors saw some excellent examples of protocols and service level agreements that had been signed up to by all relevant agencies. Importantly, these appeared to be working in practice and were regularly reviewed. Such agreements are valuable in that they clarify the roles and responsibilities of all the agencies involved and regular review ensures they are constantly updated and remain valid and useful. In Barnsley, for example, there is an excellent Youth Justice Agreement between Barnsley Magistrates' Court and Barnsley YOT (2005). This covers YOT facilities and resources, appearances in adult courts; bail information, support and remand services, and clarifies the responsibilities of both the court and the YOT.

¹³ National standards replaced locally agreed timeliness targets in August 2004. Standards for youth cases include all cases.

¹⁴ Source: Department of Constitutional Affairs Statistical Bulletin *Time Intervals for Criminal Proceedings in Magistrates' Courts*. Data correct as at 27 November 2006.

Court User Groups

- 5.5 Court User Groups (CUGs) exist to promote the smooth and efficient running of the court by consulting and involving users. They seek to identify, discuss and propose solutions to local problems and progress ideas. They usually include representatives of the youth Bench, court staff, the Witness Service, YOT, Crown Prosecution Service, custody provider, security staff and police, some also include defence solicitors. All Areas visited during our inspection have CUGs, although not all are Youth Court specific.
- 5.6 Meetings are well attended by all relevant agencies. Feedback from other agencies confirmed that ideas are progressed and issues dealt with effectively at such meetings.

Separation from adults

- 5.7 It is a legal requirement for children and young persons to be kept separate from adults at court. Inspectors found that Youth Court waiting areas are separated from adult court waiting areas in most courthouses. However, this can be compromised by the location of other facilities, such as toilets and refreshments, meaning that young people have to go through adult waiting areas to access these facilities. Inspectors generally found that waiting areas were comfortable but lacked useful information, such as information about the court process and participants in the courtroom, or things to do (such as magazines to read), although at least two of the courts inspected did provide a television in the waiting area. Where there is not a separate Youth Court, we were satisfied that most courts facilitated separation of youths and adult defendants by provision of a separate youth day. Two courts inspected did not effectively separate youth and adult defendants.

Young people in custody

- 5.8 Young defendants can be remanded or sentenced to custody at Young Offenders Institutions (YOIs), Secure Training Centres or secure local authority accommodation. This latter estate is limited and not always located near the areas of greatest need. Escort to this accommodation is the responsibility of the Youth Justice Board for England and Wales (YJB) but HMCS provides holding accommodation at court. Young people in custody are in a particularly vulnerable position.
- 5.9 Custody facilities at court for young defendants range from unacceptable to good. Some Youth Courts have specific facilities for young defendants situated near to the custody office and, in some cases, have CCTV. Others make use of adult cells, although there is always appropriate separation from adult defendants.
- 5.10 Inspectors were appalled by the condition of the accommodation provided for young people remanded or sentenced to local authority secure accommodation in one court, and immediately recommended to HMCS that it should not be used, and this was acted upon on the day. This was an isolated room with potential ligature and self-harm points, where YOT staff confirmed that young people were frequently confined unaccompanied. Even when accompanied there were no alarms or telephones should a member of YOT staff get into difficulties. This was the worst, but by no means the only, example of inappropriate accommodation for vulnerable young people.

- 5.11 Inspectors were concerned to note the length of time some young defendants spend in court custody, particularly in those areas where facilities are inadequate.
- 5.12 There is widespread confusion in courthouses over who is responsible for young people remanded or sentenced to local authority secure accommodation, whilst they are still on court premises awaiting escort (which can sometimes take several hours). Inspectors were given conflicting accounts about who is responsible and how these young people are cared for while on court premises. Such young people are not included in the Prisoner Escort Custody contract, and the Prisoner Escort Custody Service (PECS) are not expected to take responsibility for them. This means that responsibility often falls to the YOT staff, who often have other responsibilities to carry out. However, Inspectors were also shown one document by a custody officer, indicating that court staff were responsible for the care of these young people. There is uncertainty around whether or not these young people should be kept in locked cells but there are not always alternative dedicated rooms available. This confusion resulted in vulnerable young people being left unaccompanied and in unsuitable accommodation in some cases. This is a dangerous situation with a high risk of serious harm occurring. This situation is not acceptable. The issue was previously identified in an HMI Probation report in 2005¹⁵ but little appears to have changed. We have made an urgent recommendation below to HMCS.
- 5.13 An example of the potentially serious consequences of such confusion was told to Inspectors by YOT staff at one court. A young person had been remanded to local authority secure accommodation and was left in the care of PECS staff. Towards the end of the working day, PECS staff contacted the YOT and made clear that they would release the young person at 5.00 pm when the staff were going off duty, unless YOT were prepared to take over or the escort arrived. Just after 5.00 pm YOT staff found the young person sitting on the steps of the courthouse.

Recommendation 3

That, for young people remanded or sentenced to local authority secure accommodation, HMCS urgently clarify responsibility for the young person whilst waiting for escort from the court, and ensure that its responsibilities are consistently met.

- 5.14 It is important for key documents to be sent with a prisoner to prison. Documents, such as pre-convictions and pre-sentence reports, enable HM Prison Service to comprehensively risk-assess new prisoners. Without such information prisoners and prison staff may be put at additional and unnecessary risk. In some courts, legal advisors informed us that they had taken responsibility for ensuring that documents do accompany the prisoner, but this was by no means universal. Inspectors were concerned to note that not all Youth Courts have effectively implemented a recommendation from the Mubarek Inquiry report in relation to certain information being provided to PECS with the custody warrant. This is despite clear guidance on this being circulated to all HMCS Areas via internal Business Information Bulletins.

¹⁵ *From Arrest to Sentence. The Role of YOTs in the Safeguarding of Children*, HMI Probation 2005, p68.

Recommendation 4

That HMCS ensure that all Youth Courts have effectively implemented the Mubarek Inquiry recommendation about specific information being provided with custody warrant to the Prisoner Escort Custody Service (PECS).

Video links with custodial establishments

- 5.15 Many Crown and magistrates' courts have video systems to link to prisons and YOIs. These allow people in custody to appear in court via a live video-link from prison. Currently, such links may only be used before the start of a trial.
- 5.16 Young people often have to make long journeys to the court and may have to spend long spells in unsuitable accommodation. Inspectors were disappointed that prison video-link facilities are not often identified as an option in these cases. Sometimes this is because of a lack of equipment, but sometimes it is because of different interpretations of how these can be used¹⁶.

Suggestion 4

That HMCS work with the judiciary to review and clarify the rules in relation to the use of prison video-links for pre-trial hearings in the Youth Court.

Security

- 5.17 HMCS has issued guidelines for effective security management within HMCS. These are designed to be a reference guide and security management tool giving physical and operational management solutions to security issues. However, we found that safety and security in many Youth Courts is inadequate, with weak assessment of risk. We have given details of this in a confidential annex to HMCS.

Recommendation 5

That HMCS ensure all Youth Courts comply fully with the *Safe and Secure Policy*.

¹⁶ S47 Crime and Disorder Act 1998, also promoted in S45 Police and Justice Act 2006.

Annex A

HMCS responses to HMICA recommendations

HMICA Recommendation 1

That HMCS ensure appropriate pre-court information that sufficiently prepares young defendants and their parents/carers for an appearance at court is available and effectively disseminated.

HMCS response

- HMCS accepts the recommendation. We will work with court staff, practitioners and criminal justice system partners, including the legal profession, Association of Chief Police Officers, the Youth Justice Board, Home Office (Youth Justice and Childrens' Unit), Justices' Clerks Society, the Magistrates' Association Youth Court Committee and Third Sector to identify essential elements for inclusion in pre-court information as well as drawing on the West Mercia practice commended by HMICA. We will incorporate these elements in a guide or model which Areas can then use to produce pre-court information, taking account of their local arrangements and circumstances as necessary. This recommendation links with recommendation 2 concerning young defendants with learning difficulties. We will ensure that pre-court information to parents and carers gives clear advice on telling the court about a young person's difficulties.

Overall improvement target:

To achieve full implementation in all HMCS Areas by 31 January 2008.

HMICA Recommendation 2

That HMCS work with other agencies to ensure that appropriate facilitation and adjustments are made to the court process for young people with learning difficulties by:

- facilitating early identification in the court process of such young people, and
- ensuring that court staff have the knowledge and understanding to respond appropriately.

HMCS response

- HMCS accepts the recommendation. It links with Recommendation 1 on pre-court information. We will ensure that the guide or model mentioned in the previous response deals explicitly with parents and carers telling the court at an early stage about a young person's learning difficulties so that the court can take account of them. Recommendation 2 also links with an anticipated Practice Direction (April 2007) on vulnerable defendants. This will embrace young defendants with learning difficulties. We will work with other agencies to develop a short plain English guide for our staff on learning difficulties in young people based on the best available material, taking account of the Practice Direction. We will also take steps to ensure that defence teams draw the courts' attention to young defendants' problems in this area where this is appropriate.

Overall improvement target:

To achieve full implementation in all HMCS Areas by 14 September 2007.

HMICA Recommendation 3

That, for young people remanded or sentenced to local authority secure accommodation, HMCS clarifies responsibility for the young person whilst waiting for escort from the court, and ensures that its responsibilities are consistently met.

HMCS response

- HMCS recognises the need for greater clarity in this area and is keen to address the issue of responsibility for those young people remanded or sentenced to local authority secure accommodation.
- HMCS will work with its partners, including the Youth Justice Board, Youth Offending Teams, Prisoner Escort Custody Services (PECS) and also with escort contractors to clarify the correct procedure, publicise it and ensure it is followed consistently.

Overall improvement target:

To work with partners to clarify who has responsibility for young people remanded or sentenced to local authority secure accommodation while they wait for escort from the court, issue appropriate guidance on the correct procedure to be followed and obtain assurance of its effective implementation by 31 March 2008.

HMICA Recommendation 4

That HMCS ensure that all Youth Courts have effectively implemented the Mubarek Inquiry recommendation in relation to certain information being provided with custody warrant to the Prisoner Escort Custody Service (PECS).

HMCS response

- HMCS accepts that while clear internal guidance, as referred to in the HMICA Report, has been issued to courts on the documents to accompany custody warrants, the full range of documents is not being transferred with the prisoner to the prison in all instances.
- HMCS is addressing this issue following the Mubarek Inquiry Report and is working with escort contractors and prisons to establish where the system is failing and what can be done to ensure these documents accompany the custody warrant.

Overall improvement target:

- To work with HMPS and PECS to establish a protocol for the provision of documents accompanying the custody warrant and issue that protocol by 30 June 2007.
- To ensure that the necessary documents required by the prison in order to carry out risk assessments of prisoners on arrival are sent with the custody warrant by 31 December 2007.

HMICA Recommendation 5

That HMCS ensure all Youth Courts comply with the *Safe and Secure* Policy.

HMCS response

- HMCS recognises the importance of identifying and minimising safety and security risks, particularly in Youth Courts and with the associated facilities. We will continue to monitor and assess risks and, within the financial and operational constraints of the business, act to reduce or eliminate those risks.

Overall improvement target:

Full implementation, in all courts, of the requirements of *Safe & Secure*, by 31 December 2007.

Annex B

Inspection framework and methodology

The Inspection Framework was developed from the four main headings in the *Good Practice Guide*: Engaging with offenders and their families; The court environment; Opening up the Youth Court; and Feedback to sentencers. We included an additional criterion covering ‘effective support for the Youth Court’ to ensure that the supporting structures, including safety and security, external communication and working with other agencies to progress cases, were not omitted from this inspection. Comments on the Inspection Framework were invited from a group of consultees, including Youth Justices and representatives of other youth justice agencies.

Some of these headings cover judicial areas, which fall outside of the remit of HMICA (as set out in the Courts Act 2003). However, exploring only the non-judicial aspects would have provided a limited opportunity to understand the real value and impact of the *Good Practice Guide*. Therefore, with the agreement of the senior judiciary, Inspectors sought the views of magistrates, District Judges and legal advisors on specific areas of the Youth Court *Good Practice Guide* and their implementation. Judicial views have been reported separately to the Lord Chief Justice.

Key function and inspection criteria

Key function: The implementation of the *Youth Court Good Practice Guide 2001* (greater openness, engaging directly with the offender, feedback on the effectiveness of sentencing and a less adversarial setting) has been undertaken successfully and Youth Courts provide an environment that supports effective delivery.

NB: Criteria 1 – 4 (and part of 5) are taken directly from the *Youth Court Good Practice Guide 2001*.

Criteria	Indicators	Sources of evidence
1. Effective engagement with defendants and their parents or carers	<ul style="list-style-type: none"> • Plain language alternatives for legal and technical words and phrases are used in court. • The defendant and parents/carer are not passive observers of the proceedings. • Introductions are made, and procedure is explained clearly to the defendant and their parent or carer. • Effective arrangements are in place to ensure that those with languages other than English and those with learning difficulties can understand and participate in proceedings. • Unrepresented defendants are given appropriate assistance in court. • Defendants, including those in custody, are provided with sufficient information in appropriate formats, to understand and take part in the proceedings before, during and after the hearing. • The role of all participants in the court hearing is clear to the defendant. 	<p>Interviews with magistrates, District Judges (Magistrates' Court), court staff and defendants, parents or carers, Youth Offending Teams interviews, Courtroom observation.</p> <p>Defence lawyers and Crown Prosecution Service.</p>

Continued

Criteria	Indicators	Sources of evidence
2. Courtroom layout facilitates good communication	<ul style="list-style-type: none"> • Physical court environment fosters good communication – type of furniture, layout and seating arrangements – from the viewpoint of encouraging an active not passive role from all, including Youth Offending Team members. • Defendants in custody are able to engage in the court process. • Video facilities and screens are available for vulnerable witnesses if required. 	<p>Observation.</p> <p>Interviews with magistrates, District Judges (Magistrates' Court), cell and court staff, defendants, family members, Youth Offending Team staff, press. Defence lawyers and Crown Prosecution Service.</p> <p>Witness Support and other voluntary agencies providing local support to young victims and witnesses.</p> <p>Liaison Police Officer.</p>
3. More open court processes to encourage community confidence in Youth Courts	<ul style="list-style-type: none"> • Legal advisors receive appropriate training regarding the proper lifting of reporting restrictions (1998 Joint Home Office/Lord Chancellor's Department guidance; Judicial Studies Board guidance May 2001). • There is proactive engagement with the local media (eg: they are invited to attend court and are given appropriate court lists -including supplemental daily lists). • Attendance at court for victims is appropriately facilitated. • Sufficient and up to date information is available about the Youth Court process for any potential participant. • There is effective communication with victims and witnesses, regarding attending court and the outcome of cases. • Requests to attend Youth Court hearings are dealt with appropriately. 	<p>Observations.</p> <p>Interviews with legal advisors, magistrates, District Judges (Magistrates' Court), press, Justices' Issues Group, Victim Support, Court User Group. Press coverage.</p> <p>Defence lawyers and Crown Prosecution Service.</p> <p>Witness Support and other voluntary agencies providing local support to young victims and witnesses.</p> <p>Witness Care Unit.</p>
4. Feedback to sentencers to enable reflective sentencing	<ul style="list-style-type: none"> • Effective arrangements are in place for feedback on sentences from Youth Offending Team to Bench. • Data is regularly (as set out in the <i>Youth Court Good Practice Guide 2001</i>) provided to the Youth Court Panel from the sentencing advisory panel. • Youth Offending Teams attend panel meetings on a regular basis and sentencing data is a regular agenda item. • There are regular meetings of Youth Court Panel (accepted good practice three or four times a year). 	<p>Interviews with magistrates, District Judges (Magistrates' Court), court staff, Youth Offending Team and Youth Court Panel.</p> <p>Briefing materials.</p>

Continued

Criteria	Indicators	Sources of evidence
<p>5. There is an effective system to support the Youth Court and provide a safe and secure environment for all users.</p>	<ul style="list-style-type: none"> • Effective multi-agency arrangements are in place to ensure that: <ul style="list-style-type: none"> – all cases are progressed in a timely manner – appropriate information flows promptly between agencies. • Youth Justices feel that training has enabled them to develop skills necessary to implement the <i>Youth Court Good Practice Guide 2001</i>. • There is good external communication to ensure a greater understanding of the Youth Court. • There is a performance management system that supports a culture of improvement in the Youth Court. • Custody facilities are age-appropriate and safe. • Youths being remanded or committed to custody are processed in a timely manner. • Access to courthouses for those in custody is safe and provides an appropriate level of privacy. • Levels of safety and security in court buildings give confidence to all participants to take part in proceedings. • Waiting areas are separated from any adult court waiting areas and are clean, comfortable, safe and appropriate. 	<p>Briefing materials. Interviews (including defence lawyers). Youth Court Panel. Court User Group. Observation. Defence lawyers and Crown Prosecution Service. Magistrates/District Judges.</p>

Annex C

Youth Courts visited for this inspection

Cambridgeshire	Huntingdon Wisbech
Hampshire	Newport, Isle of Wight Fareham
Hertfordshire	Hertford St Albans
Inner London	Camberwell Green Thames West London
Lancashire	Blackpool
Merseyside	Liverpool Bootle
South Wales	Swansea Llwynypia
South Yorkshire	Rotherham Barnsley
Sussex	Brighton Chichester
Thames Valley	Oxford
West Mercia	Kidderminster Shrewsbury

Annex D

HMICA staff involved in this inspection

Karen Cracknell	Lead Inspector
Caroline Wilson	Inspector
Cheyne Mitchell	Inspector
Harriett Mather	Inspector
David Clitheroe	Inspector
Penny Rickards	Inspection Support Manager
Caroline Sage	Inspection Support
Mark Sims	Research Officer
Madina Rehman	Research Officer
Tim Paviour	Publication Manager
David Abbott	Quality Assurance
Margaret Pinder	Inspection Sponsor
Eddie Bloomfield	Chief Inspector

Annex E

Youth Court Good Practice Guide 2001

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Home Office

BUILDING A SAFE, JUST
AND TOLERANT SOCIETY



The Youth Court 2001

**The Changing Culture of
the Youth Court**

Good Practice Guide

Home Office
Lord Chancellor's Department
March 2001



The Youth Court 2001

The Changing Culture of the Youth Court

Good Practice Guide

Home Office
Lord Chancellor's Department
March 2001

Acknowledgments

Many people have contributed to this work - too many to name and thank individually but a particular debt is owed to all those who participated in the Demonstration Project in the Leicestershire and Rotherham Youth Courts.

Foreword

Speaking at the last Annual General Meeting of the Magistrates' Association (October 2000), the Lord Chancellor complimented lay justices on the way they adapt to new legislation and new ways of thinking.

A theme of his Presidential address was that support from the magistracy is vital to reform of the Criminal Justice System and key to continued progress in the area of youth justice. Progress does not depend solely on the legislative changes in the Crime and Disorder and Youth Justice and Criminal Evidence Acts.

Referring to the Demonstration Project in Leicestershire with Rutland and Rotherham, Lord Irvine emphasised the need for the court process to bring home to young people the nature of their offending. "The ultimate objective", he said "is to prevent offending." I am certain that all youth justices agree with that.

How we conduct cases in court can have a powerful impact on the offender and there is much good sense in this guide on which even the most experienced of us can draw. Research has shown that the public has little confidence in the Youth Court. I think that is largely because they know little of what we do. If we are to improve the public's perception and promote confidence in the Youth Court we need, as it were, to open the courtroom door a little wider.

Alex Kilpatrick JP
Chair, Magistrates' Association Youth Court Committee

Contents

1. Introduction	4
- Legislative change	4
- The Demonstration Project and cultural change	4
- Purpose and use of this guidance	5
2. Implementing change	6
3. Engaging with offenders and their families	7
4. The court environment	9
- Practice Direction by the Lord Chief Justice	9
5. Opening up the Youth Court	11
- The interests of victims	11
- Relations with the media	13
- Reporting restrictions	13
6. Feedback to sentencers	15
7. Review/ feedback/ contact points	16

The Youth Court 2001

The changing culture of the Youth Court

Good practice guidance

I. Introduction

Legislative change

- 1.1 In its White Paper, *No More Excuses – A New Approach to Tackling Youth Crime in England and Wales (Cm 3809)*, the Government set out its plans for reforming the youth justice system.
- 1.2 Changes outlined in the White Paper, and enacted in the Crime and Disorder Act 1998 and the Youth Justice and Criminal Evidence Act 1999,¹ are intended to ensure that the youth justice system is effective and efficient; that it has a clear sense of purpose - that of preventing offending by young people - and has the full confidence of the public and all those who come into direct contact with it.
- 1.3 The legislative changes were a watershed but building a more effective Youth Court within a reformed youth justice system is a continuing process and the way in which the Youth Court conducts its proceedings has a powerful contribution to make. The Government set out its thinking on the role of the Youth Court in a changed system in Chapter 9 of the White Paper:

The Demonstration Project and cultural change

- 1.4 The Demonstration Project explored, independently of legislative and structural change in the youth justice system, how cultural changes within the court - greater openness, engaging directly with the offender, feedback on the effectiveness of sentencing and a less adversarial setting - could be used to support the statutory provisions and promote confidence in the system.
- 1.5 The Project ran from October 1998 to March 2000 in two court areas - one a single court in the centre of a medium sized town (Rotherham) and the other a county area (Leicestershire) with 5 courts. They pursued four key objectives:
 - **effective engagement** with defendants and their parents to probe the reasons for offending and to encourage plans to change behaviour
 - changing **courtroom layouts** to facilitate better communication
 - making the **court process more open** by lifting **reporting restrictions** where appropriate, and exercising discretion to allow others such as **victims** to attend court
 - giving **feedback to sentencers** on the outcome of sentences.

- 1.6 The Demonstration Project was evaluated by independent researchers from Sheffield University. Their report² was published on 13 December 2000 and circulated to all Youth Courts. Changes made in the Project areas were judged successful and both areas decided to make them permanent features of the way in which they deal with young offenders. All Youth Courts were therefore asked to review their own practices and wherever possible to adopt those developed in the Project areas³.

Purpose and use of this guidance

- 1.7 This guidance is issued jointly by the Home Office and Lord Chancellor's Department. It follows consultation with the two Project areas, the Magistrates' Association, the Justices' Clerks' Society, the Judicial Studies Board and the Youth Justice Board.
- 1.8 Further copies of the report and this guidance are available from the Home Office, tel: 020 7273 2564.
- 1.9 This guide draws out the good practice developed during the Project and makes a number of suggestions based on this experience.

¹ Now consolidated in the Powers of Criminal Courts (Sentencing) Act 2000

² Home Office Research Study 214, *Evaluation of the Youth Court Demonstration Project* by Charlotte Allen, Iain Crow and Michael Cavadino (HORS 214).

² Joint Home Office/LCD letter to JCEs, Justices' Clerks and Chairs of the Youth Panel, 13 December 2000

2. Implementing change

- 2.1 A key message from the Demonstration Project is that making changes of the kind described above requires close inter-agency co-operation, a shared understanding of the underlying purpose and training for youth justices (chapter 2 HORS 214).
- 2.2 Both areas concluded that the changes needed to be managed in a structured way which included consultation with stakeholders. Both established a Steering Group to oversee the Project. Extensive discussions took place within the Youth Court Panels and Court User Groups and both areas set out their approach in local protocols. These are included in the Evaluation Report (HORS 214) at Appendix D and provide a helpful model.
- 2.3 Some main action points are summarised below. More is said about training in paragraph 3.12.

Good practice

- Establish a Steering Group or Project Board to oversee the changes
- Consult stakeholders through Court User Groups and Youth Court Panels
- Draw up a local protocol setting out the changed approach
- Plan and deliver relevant training for youth justices
- Ensure local agencies (including local defence lawyers) receive a copy of the protocol
- Ensure protocol is available in public areas of the court (e.g. waiting area).

3. Engaging with offenders and their families

- 3.1 Underpinning the Government's programme of reform is the belief that the right intervention at the right time can be highly effective in preventing or reducing the criminal activities of young people.
- 3.2 The new Youth Court disposals provide a progressive and flexible set of responses in which measures to prevent offending and punishment can be matched to the needs of the offender and the seriousness and persistence of offending.
- 3.3 Making the legislation work is heavily dependent on enquiry into the circumstances of the offender and his or her behaviour.
- 3.4 Reports from youth offending teams (Yots) provide much of the detail but the court process has an important part to play. Enquiry by the court which promotes the participation of the offender (and his or her family) in that process can help ensure that the intervention which the court orders is the most appropriate in the circumstances.
- 3.5 The intention is not to treat offenders (or families and supporters) to a homily but to involve them, so that they are not passive observers; to promote a culture in which they expect to be put on the spot, confronted with their offending and required to take responsibility for it - so that:

“the sentencing process is more offender orientated.” (Leicestershire justice, page 19, HORS 214)

As one Rotherham justice put it, *“It's a change from the defendants sitting back and leaving it to the advocate: it's not an easy ride.”* (page 16, HORS 214).

- 3.6 One of the most welcome and successful aspects of the Project was the positive view taken of efforts to increase the level of engagement with young people and their parents.
- 3.7 In the early stages of a case, magistrates can introduce themselves and others and ensure that all concerned understand what is happening. At the sentencing stage they can engage directly with young offenders in addressing their offending behaviour; and this may help in arriving at the most suitable sentence.
- 3.8 Three magistrates sitting in Rotherham reported, *“After reading the report, we were not going to tolerate more of the same, and considered custody the only option. After deep discussion with the defendant, we were persuaded that she had changed direction and gave her a probation order to give her an opportunity to prove herself”*.
- 3.9 A policy of more engagement did not seem to increase the time it took to deal with cases (page 30, HORS 214).

- 3.10 Engaging offenders by speaking directly to them seems straightforward. It is easy to state some of the elements: plain speaking pitched at the right level for the offender (taking account of education, maturity and comprehension), avoiding legal and technical words and phrases and using open and relevant probing questions. Appendix F of the Evaluation Report (HORS 214) gives a glossary of useful plain language words and phrases.
- 3.11 Doing it in practice is less easy and it became evident during the Project that justices would have welcomed more training and practical guidance at the outset. In addition, it is obviously important that magistrates are confident of knowing when to intervene and when not to.
- 3.12 The Judicial Studies Board has established a Youth Justice Training Advisory Group and intends to issue a training package for Youth Court justices by May 2001, which will include material on engagement.

Good practice

- Share plans for enhanced engagement with local practitioners (especially defence lawyers) at court user/ practitioner meetings
- Develop plain language alternatives for legal and technical words and phrases
- Ensure that those who chair youth courts receive training to develop oral questioning skills and listening skills
- Include changed procedures in protocol.

4. The court environment

- 4.1 The physical court environment - the type of furniture, layout and seating arrangements - can directly promote or hinder communication. It can help draw parties into the process as active participants or tend to sideline them in a more passive role.
- 4.2 Sitting parents next to their children is a way of including them in the court process and encouraging their participation. Moving Justices from a raised bench into the well of the court, so that they are at or near the same level as defendants, means that they can more easily maintain eye contact when speaking to them. This in turn helps the engagement process.
- 4.3 Although the architecture and structure imposed constraints, the Project sites reviewed the physical layout of their courtrooms, and taking account of security, found ways of creating a setting that promoted communication but did not undermine the court's authority.
- 4.4 In the early stages of the Project, justices had some reservations about the changes in layout, in part because they did not want to create a setting which undermined the status and significance of a court appearance, but also because there were real practical considerations about ensuring that all those involved felt as comfortable as possible, and did not feel intimidated or threatened. The movement of the magistrates from a raised bench to the well of the court was a particular concern to some, but many came to accept the change after they became used to it.
- 4.5 Overall, the changes to layout were accepted because they lent themselves to greater involvement by the defendant and their families; and this aspect of the Project was regarded as having had the biggest impact on the culture of the Youth Court.
- 4.6 Existing architecture in courts around the country may restrict what can be achieved, and structural changes would need to be made within existing resources. However, in the Project areas changes were achieved without additional resources and none of the changes had significant financial implications for the courts involved. It should therefore still be possible for all areas to achieve a more approachable court layout.

Practice Direction by the Lord Chief Justice

- 4.7 During the late stages of the Project (February 2000) the Lord Chief Justice issued a Practice Direction, *Trial of Children and Young Persons in the Crown Court*.
- 4.8 Although the Practice Direction applies directly to the Crown Court rather than the Youth Court, it reflects the principles of the European Convention on Human Rights and it has implications for the way in which young defendants are treated in general. It underlines the need to make further progress towards the kind of initiatives introduced by the Youth Court Demonstration Project.

4.9 The following paragraphs of the Direction are especially relevant:

- Paragraph 3: All possible steps should be taken to assist the young defendant to understand and participate in the proceedings
- Paragraph 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
- Paragraph 10: A young defendant should normally, if he wishes, be free to sit with members of his family or others in a place which permits easy, informal communication with his legal representatives and others with whom he or she wants or needs to communicate
- Paragraph 11: The court should explain the course of proceedings to a young defendant in terms he or she 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.

4.10 Significantly, the Evaluation Report (page 72, HORS 214) notes that the Practice Direction was discussed in meetings in the pilot sites and that “The view of those concerned was that the changes in court layout and procedure that had taken place as a part of the Demonstration Project were now the way forward for the Youth Court, and that the Practice Direction reinforced what the Project had set out to achieve.”

Good practice

- Review the physical environment of the courtroom, and make changes to foster better communication without compromising the security and authority of the court
- Consult all court users before making changes
- Take into account the principles embodied in the Lord Chief Justice’s Practice Direction
- Include changed procedures in a protocol.

5. Opening up the Youth Court

- 5.1 As noted above, Chapter 9 of the White Paper set out the Government's objectives for the Youth Court. One of those objectives is greater openness in proceedings.
- 5.2 Section 47 of the Children and Young Persons Act 1933 provides that no person shall be present at any Youth Court sitting except members and officers of the court, parties to the case, their legal representatives, witnesses and other persons directly concerned in that case, *bona fide* members of newspapers or news agencies and persons specially authorised to be present.
- 5.3 It is not the Government's intention that Youth Courts should become open in the same way as the adult criminal courts. It is for the court to strike a balance between the need to protect children and young persons, the general interest in the open administration of justice and the claims of individuals to be present.
- 5.4 However the Government believes that the essentially private nature of Youth Court proceedings discourages young offenders from facing up to the consequences of their behaviour. It also considers that:
- all **victims** should have the opportunity to attend Youth Court hearings (trials and sentencing) if they want to do so, unless the particular circumstances of the case mean that it would not be in the best interests of justice;
- and that in some cases and circumstances:
- **reporting restrictions** may properly be lifted and
 - the **general public** may properly be allowed to attend.
- 5.5 In both Project areas it was said that people with a legitimate interest should be permitted in court (and that was written into the protocol for Rotherham). But members of the public did not attend.
- 5.6 The importance of improving public awareness of the Youth Court's work has been shown in a recent Home Office Research Study (Mattinson and Mirrlees-Black 2000, HORS 200). It found that in the 1998 British Crime Survey the public rated the Youth Court worse than any other part of the criminal justice system, and that those with least knowledge about youth justice had the least confidence in the Youth Court. The Research Study report suggests that improving knowledge about youth justice should increase confidence in the Youth Court.
- 5.7 Guidance on opening up Youth Court proceedings was issued by the Lord Chancellor's Department and Home Office in the joint circular of June 1998, *Opening up Youth Court Proceedings*.

The interests of victims

- 5.8 There was considerable support in the Project areas for the principle that victims of crime should be able to attend Youth Court hearings; however, there were indications that in practice most victims did not particularly want to attend, and few did during the Project, except as witnesses. What seemed to be most important to victims was knowing about the outcome of the case.

- 5.9 It seems clear that if victims are to attend court then some effort will be needed on the part of the court, both to make victims aware that they can attend, and to ensure that adequate provision is made for them.
- 5.10 Mechanisms should be put in place to accommodate those victims who want to be in court, by establishing links with the local Victim Support/Witness Service schemes. Courts may wish to discuss provision for victim attendance with the Crown Prosecution Service, police and Victim Support/Witness Service through Court User Group meetings.
- 5.11 In particular, it would be helpful for the discussions to include the following issues:
- whether sufficient and up to date information for victims about the Youth Court process is available and the method by which this is communicated
 - whether to draw up an information leaflet locally which could, for instance, inform victims on what to expect - including such matters as what support services are available, waiting room facilities, the layout of the court room, what victims can and cannot do, how those wishing to attend inform the court, and what happens next.
 - what provision is made for young victims.
- 5.12 The Court may additionally wish to involve their local Trials Issues Group in agreeing any leaflet for victims: many TIGs have Victim and Witness Care Sub Groups to advise on victims issues.
- 5.13 In all cases where victims attend court, the Witness Service can provide both emotional and practical help, including information about the court process. The Youth Court should have access to the Witness Service by March 2002. In the meantime, at centres where the Witness Service is not available, it would be appropriate for court staff to explain the court process to victims.
- 5.14 Where a victim wishes to attend the Youth Court but is refused permission, the court should ensure that the reasons are explained to them.
- 5.15 The police already have a duty to communicate information about the case to the victim. Victim Support say that not being kept informed is the main source of dissatisfaction for victims.

Good practice

- **Review current local arrangements for victims (including a friend or person who is a supporter) to attend the Youth Court. In particular, review**
 - the information and support available for victims
 - ensure that information about the outcome of cases is being provided to victims
 - consider the needs of young victims
 - accommodation needs
- **Agree protocol.**

Relations with the media

- 5.16 By law, the media is entitled to attend the Youth Court and may report cases without identifying those concerned, subject to restrictions under section 49 of the Children and Young Persons Act 1933. They may apply for restrictions to be lifted (see paragraphs 5.21 – 5.26).
- 5.17 In practice, the press rarely attend Youth Court hearings. Increased contact with the press was established in the Project areas and was felt to have been a productive and worthwhile exercise. Such contact can result in the public becoming better informed about youth justice and the Youth Court.
- 5.18 Informative articles in the local press can help improve public awareness.

Leicester City Court set out to interest their local paper in the work of the Youth Court. The reporter was provided with a seat in the court rooms and with the court and supplemental lists. This resulted in 65 articles. These were mainly court reports but 14 were articles about the Youth Court and youth justice; five were about the Project itself; others covered fast-tracking persistent young offenders, curfew orders, secure remand procedures and how “offenders” under ten years of age are dealt with.

- 5.19 Experience in the Project areas suggests that courts need to be proactive with regards to the media and to make regular contact to inform the press what is happening. Courts may wish to consider appointing a member of the court staff to act as a liaison point for media contact.
- 5.20 Courts may wish to consider interesting the local media in any changes to the court process.

Reporting restrictions

- 5.21 Section 49 of the CYPA 1933, as amended, restricts the reporting of proceedings in the Youth Court and prohibits the publication of any report or picture which might reveal, or lead to the revealing of, the name, address or school of young persons concerned in the proceedings, subject to certain exceptions where it is in the public interest to do so. The court must afford an opportunity for representations to be made before making an order to dispense with the restriction on reporting.
- 5.22 The 1998 Joint LCD/HO guidance encourages the court to consider lifting restrictions in cases where:
- the nature of the young person's offending is persistent or serious or has impacted on a number of people or his or her local community in general
 - alerting others to the young person's behaviour would help prevent further offending by him or her.

- 5.23 Although it was felt in the Project areas that it was useful for magistrates to have the power to lift reporting restrictions on occasions, restrictions were lifted only once at each court.
- 5.24 Both areas included guidelines in their protocols on what magistrates should consider when deciding whether to grant an application to lift reporting restrictions.
- 5.25 Courts will also wish to keep in mind the guidance contained in the recent cases of R v Teesdale and Wear Valley Justices ex parte McKerry (2000) 164 JP 355 and R v Central Criminal Court ex parte W, B and C (2000) Cr App R 7 on the factors to be taken into account when exercising the discretion to lift reporting restrictions.
- 5.26 The Judicial Studies Board will be issuing guidance on reporting restrictions in and press and public access to the Magistrates' Courts, including the youth courts, by May 2001.

Good practice

- Review current local arrangements for
 - contacts with the media/press and the lifting of reporting restrictions
 - dealing with requests from the public to attend the Youth Court
- Review involves consultation with stake holders
- Local press is given court list in advance against undertaking as to confidentiality
- Members of press are given supplemental daily list when at court
- Courts nominate a liaison point for media contact
- Ensure local agencies (including local defence lawyers and press) receive a copy of the protocol
- Ensure the protocol is available in public areas of the court (e.g. waiting area).

6. Feedback to sentencers

- 6.1 Before the Project started, few details were available about local court sentencing patterns, breaches and reconviction rates.
- 6.2 Magistrates in the Project areas expressed a preference to have such information in a quarterly newsletter. During the Project the Home Office Research, Development and Statistics Directorate produced newsletters for the local areas. An example is given at Appendix E of the Evaluation Report. This was welcomed by magistrates and other court users, who were particularly interested in receiving information about reconviction rates and the extent to which sentences are breached or completed.
- 6.3 It was recognised that the value of such information will increase with time, as it becomes possible to consider developing trends. There is a cost to producing such information. If the task of producing feedback to the court is to be undertaken on a regular basis then there has to be an agreement about how it is to be done, and who is responsible for compiling the information locally.
- 6.4 The Youth Justice Board (YJB) will provide youth offending teams (Yots), starting this year, with six monthly data on the:
 - a) number and percentage use of all the options available in an area, from reprimands through to section 53 cases
 - b) number and percentage use of all bail and remand options from unconditional bail through to secure remands
 - c) number and ratio of community to custodial penalties.
- 6.5 This will be broken down by Yot area. The figures will compare each Yot area to the regional and national average, so that local areas can compare themselves with others. The Youth Justice Board and the Magistrates' Association jointly propose that Yots discuss these figures at Youth Court Panel meetings twice a year.

Good practice

- Youth offending teams and courts discuss and agree the content, format and method of feedback
- Youth offending teams ensure data from the YJB is provided at six monthly intervals to Youth Court panels
- Youth Court panels ensure that liaison with Yots is a standing item on the agenda of panel meetings and that Yots are invited to panel meetings to discuss the data and other issues of joint concern.

7. Review/ feedback/ contact points

- 7.1 The Government will review progress in early 2002. We plan to send a questionnaire to each court area in November.
- 7.2 We welcome comments on this guidance and early feedback from individual areas on progress made towards changing the culture of the Youth Court.

Contact points

- 7.3 Please contact:

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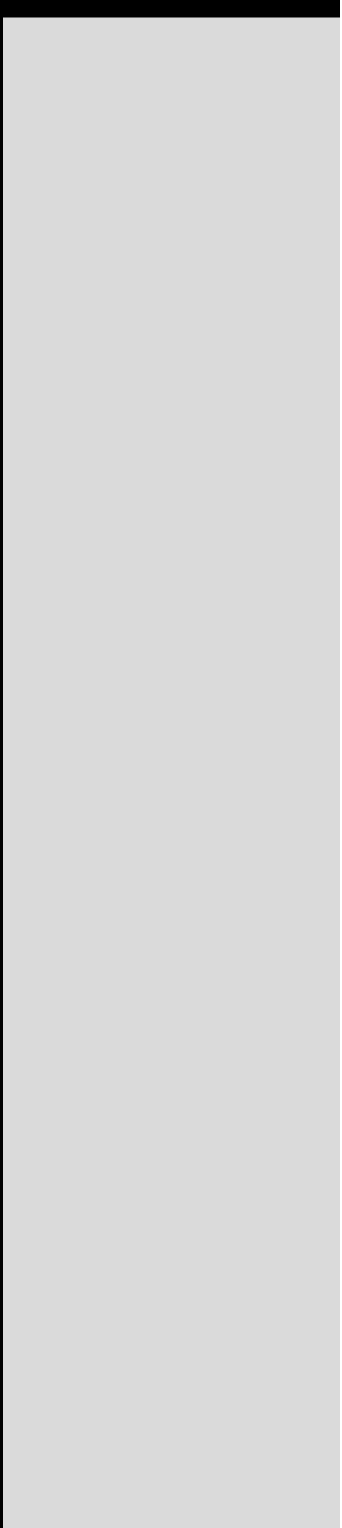
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- 7.4 An electronic version of this Guidance is available on the Home Office, LCD and Youth Justice Board websites:

<http://www.homeoffice.gov.uk>
www.open.gov.uk/lcd
www.youth-justice-board.gov.uk

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