

# YOUTH COURT BLUEPRINT

November 2023



Children and Young People's  
Centre for Justice

## Context

This paper has been written by a short life working group formed out of the Advancing Whole System Approach Implementation Group (WSA) and the Children's Rights Implementation Group (CRIG). There was representation at the short life working group from Social Work, Police Scotland, Crown Office and Procurator Fiscal Service (COPFS), The Children and Young People's Commissioner Scotland office and CYCJ.

Upon completion of the paper, it was sent to the wider WSA and CRIG Groups for comment before being presented and approved at the Youth Justice Improvement Board (YJIB) on the 2<sup>nd</sup> of October 2023.

Based on evidence and feedback from children and young people, this blueprint is designed to support Local Authorities and other partner agencies to think about the areas to consider if they are setting up their own Youth Court. It is not meant to be prescriptive but is a guide to aid thinking and encourage consistency across Scotland. Using the blueprint will ensure that Local Authorities implementing a youth court will be compliant with the UNCRC and the Promise. The working group accepts that not every Local Authority will have a Youth Court that looks the same, as each court will have to be adapted to suit the area and the children and young people it is there to support.

Following consultation with Scottish Courts and Tribunals Service (SCTS) there are areas to take cognisance of, as they are the responsibility of the judiciary. These include any change to court programmes which may be required to form a Youth Court, and any changes to the physical environment, as this would need to be properly funded. This demonstrates how all agencies involved in the formation of a Youth Court will need to work together to get the right support in place and make the court a success for children and young people in conflict with the law.

The areas covered by the blueprint are based on the feedback from children and young people.

The areas covered within the blueprint are –

1. Introduction
2. Remittal to Children's Hearing Service
3. Layout/Venue
4. Right of Privacy/Closed Courts
5. Clothing within the Courts
6. Participation and Preparation for Court
7. Language Used in Court/Speech Language and Communication Needs
8. Social Work Role
9. Training for Defence Agents/PF/Clerks/Sheriffs
10. Designated Staff

CYCJ is primarily funded by the Scottish Government and based at the University of Strathclyde.



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11. Youth Court Criteria
12. Post Sentencing in the Youth Court
13. Timings/Roll Up of Cases/Combining Sentences
14. Success of Youth Courts
15. Conclusion

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## Youth Court Blueprint

### **Introduction**

The Independent Care Review stated that:

“Despite the principles of Kilbrandon that aimed to ensure a welfare-based approach to offending, a significant number of children involved in offending behaviour are dealt with in criminal courts rather than through the Children’s Hearing System...Traditional criminal courts are not settings in which children’s rights can be upheld and where they can be heard.” (Independent Care Review, 2020, p. 41)

UNCRC Article 40(3)(b) provides that state parties shall establish measures for dealing with children in conflict with the law without resorting to judicial proceedings, whenever appropriate or desirable. This is echoed in the Beijing Rules (1985) (Rule 11) and the Council of Europe Guidelines on Child Friendly Justice (2011) (Guideline 24). However, where judicial proceedings are required, this should take place in a child-specific institution (Article 40(3)). The UN Committee on the Rights of the Child (UNCRC) has consistently advised that children under 18 should never be tried as adults in adult courts, including in its Concluding Observations on the UK in 2002, 2008, 2016 and 2023.

There are currently several youth courts running in various areas across Scotland. North and South Lanarkshire both run a Structured Deferred Sentencing Court (SDS) and Glasgow runs its own Youth Court. Aberdeen runs a Problem-Solving Court; while not a youth court as such, the age range covered starts at 18. There have been recent evaluations of the South Lanarkshire, Aberdeen and Glasgow courts. While all indicate a step forward in the implementation of a specialist approach to children and young people, none are what would be considered the ideal for children and young people, in terms of meeting their needs and protecting their rights. Children and young people involved in the justice system have “reported a general mistrust of the system, and pointed out many shortcomings such as intimidating settings, lack of age-appropriate information and explanations” (Council of Europe 2011, p. 7). Considering this, along with recent legislation and policy developments, a sub-group was formed from the Children’s Rights Improvement Group (CRIG) and the Whole System Approach (WSA) Group. It met in May 2023 to explore what a blueprint for youth courts should look like.

The main areas that were noted at the group that need to be considered are as follows –

### **Remittal to Children’s Hearings System**

Current Scottish legislation results in children aged 16-17.5 who are not previously known to The Children’s Hearings System (CHS) being dealt with in the criminal court (Criminal Procedures (Scotland) Act 1995). This is in spite of the fact that there is a mechanism in place for these children to be diverted to the CHS, which is rarely used (The Promise 2020a). This was noted by Dyer (2022) who stated that The Children’s Hearings System is where these children and young people’s “needs would be best met” (p. 3). UNCRC also states that everyone up to the age of 19 should be considered a child.

Recommendation: the group is of the view that all children under the age of 18 should be diverted to the Children’s Hearings System where possible.

## Layout/Venue

Currently the youth courts that are running take place in a traditional court room, with the sheriff seated at a higher level on the bench and the child or young person often in the dock. This is not ideal for a child or young person as “courthouses can be rather oppressive or intimidating” (Fernández-Molina et al. 2021, p. 199).

These are also large rooms that can affect the ability to adequately hear what is being said. A smaller room would be beneficial as it would “enable all persons involved to address each other at a normal conversational level” (Crofts et al. 2008, p. 229). Also, a smaller room would create a more “intimate and less intimidating environment” (Crofts et al. 2008, p. 230). This would help the child/young person to feel at ease within the setting and allow them to participate. Hunter et al. (2020) supported a less formal layout of the youth court so that everyone can sit on the same level and the child or young person is not in the dock.

Thomas et al. (2018) noted that “the formality of adult court rooms poses barriers for young adults, including the distance from the bench, higher bench, conversations between prosecutors, solicitors, legal advisers and magistrates taking place in front of them, and difficulties hearing and understanding” (p. 13). The group felt that we had to consider the layout of courtrooms in order to allow children and young people to participate and understand what is happening.

This discussion led to a further discussion about whether the venue for the youth court needs to be a formal court building. The Promise (2020b) notes that we need environments which uphold children and young people’s “rights and meet their needs in an informed and therapeutic way” (p. 5).

The Children’s Hearings system uses buildings with rooms decorated and set up in a child-friendly way. It seems reasonable to consider the use of something similar for the children and young people who are involved with the youth court.

Recommendation: a venue outwith traditional court rooms should be identified for the youth court to be held. If this is not feasible then within the court building a smaller, more informal room should be used, where everyone can sit on the same level, and the child or young person is not in a dock. The venue used for the youth court should consider the impact of trauma and ensure that the room is decorated and set up in a trauma-informed way.

## Right of privacy/Closed Courts

Of the courts currently running, North and South Lanarkshire both run on a closed court basis, so there is no entry to the public gallery for members of the public. However, Glasgow Youth Court is not closed. At times the Social Worker present will ask for this but getting that agreement from all the other professionals within the courtroom at that time can be problematic. All group members felt strongly that children and young people appearing in court should have the right to privacy, and as such, the court should be closed. This is to allow the child or young person to listen to proceedings and fully participate without fear of someone hearing their business or judging them for the way they behave in court.

During the evaluation of the Glasgow Youth Court researchers found that children and young people “highlighted the lack of privacy they felt, specifically resulting from the presence of individuals sitting in the public gallery during their hearings” (Brown and Vaswani 2023, p. 32). The Youth Court Social Workers interviewed as part of the Glasgow Evaluation also noted concerns regarding the lack of privacy for young people appearing in court and the anxiety this caused them (Brown and Vaswani 2023).

The evaluation of the South Lanarkshire SDS court at Hamilton noted that the closed court was a very positive thing and had a positive impact on the children and young people (Miller et al. 2019). Hunter et al. (2020) also noted the importance of closing the courts.

Similarly, the evaluation of Aberdeen's problem-solving court noted that "the fact that only those directly involved in the participant's case were present at the hearings was very important to participants. They felt that this facilitated more open and honest discussion" (Eunson et al. 2018, p. 5). Reviews for the court took place in a small room, in an area of court the public wouldn't normally access, and the only people present are those with a role to play in the hearing. The layout of the room is traditional but communication within the room is more informal, and everyone has the chance to participate. Children and young people felt that the interaction and encouragement from the sheriff at reviews motivated them to do well (Eunson et al. 2018).

Furthermore, the Criminal Procedure (Scotland) Act 1995 S 142 is concerned with vulnerable witnesses. It states that "a person who is giving or is to give evidence at, or for the purposes of, a hearing in relevant criminal proceedings is a vulnerable witness if— (a)the person is under the age of 18 on the date of commencement of the proceedings in which the hearing is being or is to be held" (Legislation.gov.uk 2022). The group would therefore suggest that this legislation is also applied to any child or young person who is appearing in court as the accused; the court should be closed in order to protect and support them.

Recommendation: all hearings involving a child or young person appearing in the youth court should be held in a space which is closed to the public in order to protect the child or young person and support their participation. If this is not possible then group members suggested a sign on the door detailing that the business taking place within was in relation to the youth court, to try to deter people from entering who do not have a need to be there.

### **Clothing within the courts**

It was felt by the group that if the Sheriff, clerks, defence agents and the procurator fiscal within the courts did not wear their wigs and gowns then this would create a more informal environment and make children and young people feel more comfortable. However, it was noted within the Glasgow evaluation that "young people did not suggest that the attire being worn within the courtroom was a significant issue for them" (Brown and Vaswani 2023, p. 32). However, there is no standardisation of the approach to this with some Sheriffs in Glasgow wearing the wig and gown, some wearing only the gown and some wearing neither. It would be helpful to have an agreed approach to this so that children and young people can be properly prepared for what to expect when appearing in court.

We queried in the group whether children and young people felt some reassurance from the formal wear in court, as this helped them to know who everyone was. However, this could also be managed by the agents in the court introducing themselves to the child or young person at the start; this would also help to create a more relaxed environment that holds the child or young person at the centre. This was a recommendation from Clasby et al's study (2022) which also recommended that "Judges and lawyers should avoid formal clothing" (p. 201).

Recommendation: court officials should not wear wigs and gowns and all parties should introduce themselves to the child or young person at the start of proceedings.

### **Participation and preparation for court**

The findings of the Glasgow evaluation showed that for the children and young people appearing in the court "there were often gaps in their understanding of what would take place when appearing at the Youth Court" (Brown and Vaswani 2023, p. 29). Thomas et al. (2018) noted that "there was clearly a lack of awareness from young adults about what to expect at court in advance" (p. 12). Some children and young people had some information from their lawyer or social worker while others had a frame of reference from a past court appearance or from family input. However, the information that any of the children and young people did possess was not standardised, and the quality of this could vary. There were also other children and young people who had no idea of what to expect, and what would be expected of them. This could be anxiety-inducing for the children and young people involved and much of their anxiety came "from not knowing or understanding the process and this creates fear of the unknown" (Miller et al. 2019, p. 29). Youth Court Social Workers were clear that children and young people were given information by social workers regarding their court appearance and what Structured Deferred Sentencing entails but "young people were

not always able to successfully recall or retain all the information around the process given to them” (Brown and Vaswani 2023, p. 30).

The Children and Young People’s Centre for Justice (CYCJ) recently developed a video which aims to give children and young people an understanding of what to expect when they appear in the youth court. The video is narrated by someone who has lived experience of the criminal justice system. However, due to the variations in approach from the different Sheriffs a lot of the video script states that something ‘may or may not’ happen. It would be helpful if a standard approach could be agreed and put in place so that guidance can be more definitive. It was also noted within the working group that there may be regional variations to how some courts run, due to space available, resources etc. It may be worthwhile for each court to have their own video guidance. Alternatively, there could be other means of passing on information, for example, leaflets, a website, or app. However, whatever way is chosen to pass on information to children and young people it should be in a format that they can revisit as often as needed to help them to understand and retain the information. Clasby et al (2022) also felt it was important that information was given in paper format as well as digital (text/email) means.

Another suggestion that could support the child or young person would be to allow them to visit the court prior to their appearance, like the visits that the Witness Service does with vulnerable witnesses. If this isn’t possible, pictures or a video of the actual court could be used to try to help the child or young person understand what to expect. The Council of Europe (2011) determined that “before proceedings begin, children should be familiarised with the layout of the court or other facilities and the roles and identities of the officials involved” (p. 29).

It would also be helpful for children and young people to be able to read their social work reports prior to their appearance in court, should they wish to do so. At the very least the social worker should inform the child or young person of the content of the report prior to their appearance in the court.

Approaching the child or young person in a trauma-informed way would mean working alongside the young person and allowing them choice in order to help them recover from trauma. One way to do this would be to allow the child or young person the choice of where they want to sit in the court. They would have the choice of the dock, the table with their lawyer or in the public gallery. It would be preferable for no children or young people to appear in the dock (Clasby et al, 2022). However, they should also be given the choice of where they want to sit and where their social worker should be in the court.

Many of the children and young people appearing in court as an accused are likely to have suffered some form of trauma in their life; in fact, many of these children and young people are also victims of crime themselves. “In many cases these young people have themselves been victims of crime, neglect and abuse and a number are looked after children” (The Scottish Government 2015a, p. 10). These children and young people can be victims of exploitation, sexual and financial, or they may be forced into drug trafficking. They are, in many cases, victims of crimes perpetrated against them by their own family members during childhood, i.e., abuse and neglect. Miller et al. (2019) reported that with children and young people in the youth court “the majority of their offending behaviour is linked to victimisation, their environment and situation that they feel are out of their control” (p. 28).

As a group we were also keen for the children and young people appearing in court to have information regarding their rights so that they can be sure that these rights can be upheld. Again, this is something that should be presented in an accessible format, tailored to their needs, so that they can retain this and refer to it as often as needed.

The Scottish Government (2015) has noted that we need to “help create the conditions for children and young people to be active participants in change and improving youth justice” (p. 5). Saunders et al. (2020) stated that “it is of significant concern that a lack of meaningful participation is evident in the range of court structures relating to young people” (p. 274). Their participation is vital in this but in order to get them to participate we need them to feel comfortable and confident to do so. Thomas et al. (2018) noted that “young people stressed that they were not just saying they wanted to speak, but that they wanted to be heard” (p. 17). However, there was a fear amongst children

and young people that they “may say things that could hurt their case or which they later come to regret” (Thomas et al. 2018, p. 17).

In order to try to support participation, use should be made of advocacy workers for the children and young people. It would be the advocate’s role to support the child’s understanding and ensure that their voice is heard. This would be particularly useful in situations where the child or young person’s relationship with their social worker is not yet established/difficult. Some children and young people prefer to speak to advocacy as they see them as being separate and independent.

Recommendation: ways for children and young people to actively participate in the workings of the youth court need to be developed and used widely within the courts. Children and young people should be supported to participate in the way that suits them best. Children and young people should be supported in a trauma-informed way with all staff involved in the court remaining cognisant of the person’s trauma, and the potential impact of this. Each child and young person should be offered a referral to advocacy services.

### **Language Used in Court/Speech Language and Communication Needs**

The CYCJ Good Practice Guide (2021) written in relation to children in custody stated that we “should use clear and simple language, not legal jargon, and give space for children to process and respond” (p 5). While this was written in relation to care experienced children and young people it is an area of practice that should apply for all children and young people in court. Often in the court children and young people’s understanding is checked by asking ‘do you understand?’ It may be difficult for a child or young person to answer this in the negative given the environment they are in; other ways to check understanding should be employed.

The Council of Europe (2011) state that information “should be provided to children in a manner adapted to their age and maturity, in a language which they can understand, and which is gender and culture sensitive” (p. 21). While Thomas et al. (2018) felt that “the use of complex and technical language and courts’ formal setting makes it especially difficult for young adult defendants to follow, given their variable developmental maturity and brain development. The process can be difficult to understand, intimidating, and lacking in opportunity for direct engagement” (p. 7).

Another issue within the court can be the speed at which the process takes place. “It is also worth noting that the difficulty was not only a question of language but also of speed of discourse, which was frequently too fast to be easily understood” (Fernandez-Molina et al. 2021, p. 200). If a child or young person is confused by the speed of proceedings and the language used then this is likely to lead “to a feeling that they are being excluded from something they want to and should be a part of” (Thomas et al. 2018, p. 15).

Currently within youth courts there is still an over-reliance on legal and technical language, particularly by solicitors. It has been noted that sheriffs are making efforts to simplify their language, but this is not consistent and often doesn’t go far enough. The Scottish Sentencing Council (2021) states that when the child or young person is being sentenced the sheriff should “clearly explain the sentence to the young person” (p. 6). In the experience of group members this could improve, as could the way in which children and young people’s understanding is checked.

Children and young people with Speech, Language and Communication Needs are disproportionately over-represented within the justice system; they are vulnerable to finding themselves in a situation that they are unable to understand, if court staff do not adapt their approach to communication. Clasby et al. (2022) noted that “currently, many courts are not designed to respond to neurological differences often seen in young people who engage with them” (p. 197). While Fernandez-Molina et al. (2021) found that during observations researchers noted an occasion where “language was not tailored to the needs of two cognitively impaired juveniles” (p. 200). This needs to be considered when engaging with children and young people and if additional supports are required for the child or young person, then the court needs to be made aware of this and this support made readily available. There should be no situation where a child or young person’s needs have not been considered and adjustments made accordingly.



The Council of Europe (2011) notes that “professionals having direct contact with children should also be trained in communicating with them at all ages and stages of development, and with children in situations of particular vulnerability” (p. 23). This is something that needs to be rolled out for all court staff. There also needs to be improvement in identifying when a child or young person has an issue that inhibits their understanding.

Recommendation: the language used within courtrooms needs to be standardised and simplified. Checking understanding with a child or young person should not be done in the form of a closed question (‘Do you understand?’); instead the child or young person should be invited to demonstrate their understanding (‘Tell me what you understood about what I just said’). This will make it very clear whether they have understood or not. Children and young people with additional support needs need to be identified quicker and the right supports need to be put in place for them. This should also include those with neurodevelopmental issues. Where such issues are confirmed, or suspected, assessments should be available so that the best way to support that child or young person can be identified.

### **Social Work role**

The working group were supportive of the role of social workers within the youth court but felt that they were being underutilised. There are always social work representatives within the Glasgow Youth Court but their “role in supporting the young person within the courtroom was often observed to be minimal” with their input not being routinely asked for” (Brown and Vaswani 2023, p. 36). The working group would like to see all children and young people supported in court by a known social worker who is called upon to offer input regarding the child or young person, their circumstances and any progress made. The Council of Europe (2011) recognised the value of this for children and young people and noted that “being accompanied by a person whom they can trust can make them feel more comfortable in the proceedings” (Council of Europe 2011, p. 84).

It would also be advantageous for the social worker supporting the child or young person to be from a dedicated team of youth court social workers. Dedicated teams also allow staff “to develop more specialist skills in dealing with court-involved young people, including preparing relevant and detailed information about the young person for the court and cultivating good working relationships with youth court staff” (Hunter et al, 2020, p. 18).

It would be helpful for social work to be informed, by the courts, of all children or young people (aged 25 or under) who are appearing. This would allow for all children and young people appearing in court to be properly supported, with someone there to ensure that their rights are upheld. Currently a child or young person of this age appearing in court who is not known to social work services would appear without any supports in place. Indeed, The Whole System Approach “states that all under 18s should be supported through the court process from as earliest an opportunity as possible until its completion” (McEwan, 2020, p. 1).

Social Work staff need to have access to appropriate training and resources in order to be able to adequately support children and young people. We need to ensure that “the workforce continues to develop and that professionals are skilled, qualified and confident to provide the supports children, young people and families need” (The Scottish Government 2021b, p. 13). Social Work staff need access to robust assessment models to fully assess children and young people and determine their needs.

Recommendation: court based social workers - or the child or young person’s allocated social worker - should be routinely called upon by the sheriff in order to provide an update on the child or young person. Dedicated youth court teams should be created to work within each youth court and the team should be notified of anyone under the age of 26 set to appear in court. Social work staff should have access to the training required. A full robust assessment should be formulated for use with children and young people in conflict with the law.

### **Training for defence agents/PF/clerks/sheriffs**

As a group we noted that there is a clear need for training for defence agents, procurator fiscal staff and court clerks so that they can better support children and young people in conflict with the law. We also felt that lawyers require training in relation to remittal to the Children's Hearings System as a disposal, as this is not being used as often as it should (Dyer 2022). If this option was missed in the social work report the lawyer could suggest this to the Sheriff for consideration, if they are informed that it is an option. There were some concerns noted around the attitude of the clerk towards the child or young person; it was felt that they would also benefit from some training in this area. It would be beneficial if all actors within the court were helped to understand that the child or young person is not there because they are a 'bad' person but because of a lack of proper support and opportunities. Rather than seeing children and young people in the court as troublemakers they should be viewed as vulnerable people who need help and support.

The Council of Europe (2011) report that "all professionals working with and for children should receive necessary interdisciplinary training on the rights and needs of children of different age groups, and on proceedings that are adapted to them" (2011, p. 23).

This training should start from the very basic skills, e.g., communication. In their research Fernandez-Molina et al found lawyers "were not capable of communicating with their clients" (2021, p. 198). This is unacceptable and not in the best interests of the child or young person. Efforts must be made to ensure that this does not happen. Hunter et al. (2020) also noted the need for "specially trained court professionals who have an understanding of the needs, risks, and assets of the target group" (p. 7).

Hunter et al. (2020) noted that, in the youth courts they looked at, staff "highlighted the mutual benefits of some reciprocal training...sharing learning in this way was said to have not only broadened and strengthened participants' skill sets but made them more aware of the expertise and remits of their colleagues" (p. 25).

Ward and Spence (2022) noted that "it is only recently that mandatory training has been introduced for the barristers who represent under 18-year-olds" (p. 8). However, currently this only applies in the English and Welsh legal systems, and only applies to matters being heard in the crown courts, not the youth court. Ward and Spence (2022) felt that "this lack of specialist training can be seen as a significant omission in regard to the rights of young people. As greater attention is paid towards treating young adults as a distinct group within the criminal justice system, special training for legal defence counsel will be needed" (p. 8)

It would be worthwhile having a dedicated team of court staff, e.g., solicitors, procurator fiscal, clerk and sheriff who are attached only to the youth court and are specifically trained to undertake this work. This would ensure that the needs and rights of the children and young people are protected, and that they are not disadvantaged by, for example, having a solicitor who is unaware of the full range of potential disposals.

Recommendation – staff working within the youth court should take part in multi-agency training in relation to the needs and challenges facing children and young people, and how to communicate effectively with, and for them.

### **Designated Staff**

Throughout this blueprint a lack of consistency within the youth courts has been identified. One way to try to manage this would be to use designated staff for the youth court, so that they become a familiar face to the child or young person, potentially even building a relationship with them. "Fixed staffing is essential in engaging with young people and ensuring the quality of the service" (Miller et al. 2019, p. 46). Indeed, having designated staff will support relationship building not just with the children and young people at youth court, but also across agencies as well.

The current youth courts running in Glasgow and South Lanarkshire have dedicated sheriffs, but the other staff present varies. "All SDS courts have dedicated sheriffs who are invested in the welfare-led ethos of the approach" (Miller et al. 2019, p. 20).

Continuity of staff, as stated, will allow for the children and young people to get to know the professionals in court, and build relationships with them. It is hoped that this would also encourage the child or young person to participate actively in the youth courts. Inviting children and young people to share their views and opinions in relation to how the court runs will also help it to evolve into something that those children and young people involved can get the best out of.

Recommendation: Youth courts should be staffed by a consistent team of dedicated staff members, enabling working relationships to form with the children and young people and across agencies.

### **Youth Court Criteria**

The youth courts that currently run cover differing age groups. This is another area in which there is no consistency. Some courts cover up to age 26 while others only cover up to age 21. Research around brain development suggests that we do not reach full maturity until our mid-twenties; as such it makes sense to extend the youth court to everyone until age 26. This would be consistent with significant recent developments across the sector. The Scottish Sentencing Council (2022) reported that “research shows that young people are not fully developed and may not have attained full maturity” (p. 4). The Scottish Government (2021a) also wants to extend the whole system approach “to those beyond the age of 18 providing access to support up to age 26 where possible and appropriate” (p. 6).

Regardless of the age range the youth court covers, the question must be asked: ‘what happens when the child or young person nears the upper age limit?’ Do they age out, or can they be held in the system until matters are dealt with? In terms of best outcomes, and the best interests of the children and young people, it seems fitting that they remain in the system they are in currently until their sentence is over. So, all matters that were within the youth court prior to a person’s 26<sup>th</sup> birthday would continue to be dealt with there.

The model proposed by Thomas et al. (2018) advocates for the youth court to be available to young people aged 18-24 at their first calling, “regardless of anticipated plea.” (p. 3). The youth courts currently running are post-sentencing courts. The children and young people only find themselves there after they have already appeared in an adult court, been found guilty for the offence(s) and been convicted. The working group felt strongly that every child or young person under age 26 should be diverted to the youth court and dealt with from there. This is to offer them a level of protection and ensure that their needs and rights are met.

Recommendation: all youth courts should cover the age range up to age 26. Children and young people should continue to be dealt with in the youth court post turning age 26 if they were already subject to youth court proceedings prior to their 26<sup>th</sup> birthday. All children and young people under the age of 26 should be diverted to the youth court in the first instance so that they do not have to appear in an adult court.

### **Post Sentencing in the Youth Court**

“Sentencing in the youth court is intended to focus on the welfare and rehabilitation of the young person and to address underlying factors related to offending” (Hunter et al. 2020, p. 5). In order to achieve this, SDS should always be considered as the first option for all children and young people, with intensive support packages put in place to address socio-economic needs and support the desistance of offending. SDS “has the ability to down tariff young people within the Criminal Justice System” (Miller et al. 2019, p. 46). SDS orders should be reviewed regularly within the youth court - by the same sheriff - to check on progress and address any issues.

There is also potential value in having support services to address issues such as housing, mental and physical health, substance issues, employability, budgeting, cooking and literacy, etc. housed within the court, or close by. This would allow for a very prompt, coordinated response so that the child or young person is seen while they are still motivated to change following their court appearance. Clasby et al (2022) are also in support of the co-location of services in order to better support children and young people.

Recommendation – all youth courts should use SDS as the initial method of sentencing children and young people. Support services should be co-located within the courts or should be able to respond very quickly to get the necessary supports in place for the child or young person.

### **Timings / Roll up of cases / combining sentences**

Currently within the court system there are significant delays in bringing matters in front of the sheriff. This issue is not restricted to adult courts; many children and young people have experienced this and continue to do so. If outstanding matters were rolled into one, it would prevent frequent appearances for children and young people. Miller et al. (2019) note that, as “the time a young person spends engaged with the CJS increases, outcomes worsen for the young person” (p. 20). It is without doubt in all children and young persons’ interest to limit their involvement with the court and legal proceedings.

Hunter et al. (2020) are clear that “there is urgent need for action to address the delays between offences and the commencement of court proceedings” (p. 2). There is support from the children and young people involved in the courts for fast tracking of offences. A young person, quoted by Hunter et al. (2020) notes “if you had your own kid and they do something wrong, you don’t punish them in two months’ time when you’re getting on really well with them... it’s ridiculous” (p. 13).

Also, within the youth courts currently running there is an issue if the child or young person arrives in the youth court already subject to a Community Payback Order (CPO) from another court. While the group agreed that CPOs and SDS should not run at the same time due to the different workers involved and the differences in terms of support offered, situations like the above should not be to the detriment of the child or young person. According to Miller et al, “if a sheriff is able to replace a CPO with SDS then this is the preferred action” (, p. 47). It is clear that this would be more beneficial; SDS brings with it a wider range of potential supports for children and young people and avoids the risk of up-tariffing which comes with a CPO.

Recommendation: children and young people’s offences should be fast-tracked into court to be dealt with as timeously as possible. CPOs should not be used for children and young people under the age of 26 unless they have already been through the youth court first, where SDS will have been explored as an option.

### **Success of youth courts**

As stated above, there have been evaluations of most of the youth courts currently running. The children and young people involved in South Lanarkshire felt that “they benefited in some way from being involved in the SDS” (Miller et al. 2019). Positive outcomes reported by children and young people in Aberdeen included: reduced reoffending and substance use; improved housing situation; better mental health; and improvements in social skills and relationships (Eunson et al. 2018).

Part of the success of the youth courts is thought to be down to the regular reviews held by the sheriff. “Research on the effectiveness of problem-solving approaches has shown that regular reviews by sentencers can help sustain an offender’s motivation to comply with their sentence” (Hunter et al. 2020, p. 28).

The recent evaluation of the Glasgow Youth Court found that out of the 66 SDS orders given during the timeframe 43 were completed and the child or young person admonished (Brown and Vaswani 2023). This is almost two thirds and reflects positively on the youth court. Brown and Vaswani (2023) reported that “most – although not all – young people felt positive about their future following their involvement with the Youth Court” (p. 43).

A final recommendation: the group recommends that, in order to maintain the success of any youth court and resolve any operational issues, it would be beneficial to regularly review the court for each individual area. There

should be regular meetings between all parties involved, including children and young people and their parents and/or carers.

## **Conclusion**

The working group is heartened by the work of the youth courts in place and is keen for more to be implemented. That being said, there is no doubt that more work needs to be done. The evaluations undertaken are largely positive about the youth courts and their impact on children and young people. However, there are changes that could be made to improve the experience for children and young people. These have been highlighted in this report and include improving the participation of children and young people in the court process and increasing their understanding of what to expect when appearing. Work is also required around the layout of the court, the language used within and whether the rooms should be closed or not. Other areas of note were highlighted by Hunter et al. (2020) who “found that more can be done to improve the procedural fairness and specialisation of youth court hearings — specifically, by improving the court layout and the communication skills of magistrates to encourage engagement between children and young people and the bench and strengthening the youth court specialism of defence advocates” (p. 3).

It is hoped that this blueprint goes some way to not only addressing these gaps, but also to offering a standardised approach to the creation of youth courts. A lack of standardisation is something that has been raised time and again within youth court evaluations and research, and via observations from members of the working group.

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