

**YOUNG ADULTS
IN COURT:**
Developing a
tailored approach





The T2A Alliance is a broad coalition of organisations, which evidences and promotes the need for a distinct approach to young adults (18-24 year olds) throughout the criminal justice process. Building on the work of the 2005 Commission on Young Adults and the Criminal Justice System, the T2A Alliance was convened by the Barrow Cadbury Trust in 2008. T2A has produced more than 40 research and policy reports, and has worked with researchers, experts, professional bodies, policy-makers and service users to make its case for change.

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EXECUTIVE SUMMARY

Research and Policy Context

The Transition to Adulthood (T2A) Alliance, a coalition of criminal justice, health and youth organisations, has helped to establish a growing consensus that criminal justice system responses to the behaviour of young adults should reflect their variable developmental maturity and make allowances for their specific age-related needs.¹ This consensus is underpinned by research on brain development in young adulthood suggesting that impulse control, reasoning, and decision-making capacities are in formation through the mid-20s.²

Aspects of justice system practice in England and Wales have adjusted in recognition of this evidence. Adult sentencing decisions have, since 2011, included maturity as a mitigating factor.³ From 2013, the Crown Prosecution Service began taking maturity into account as part of its public interest test. However, the allocation of people within the court system continues to be driven purely by the chronological age of the defendant. The separation into youth and adult courts was established with the Children Act 1908, recognising that children and young people needed to be treated differently from adults. We now know that young adults are a developmentally distinct population. A chronological split between jurisdictions based on Edwardian evidence no longer reflects contemporary understanding of the evidence base.

Developing the principles of a young adult court process

There are a number of good reasons why a tailored court process for young adults in magistrates' courts may improve outcomes for this population:



A research consensus suggests that **developmental maturity should be taken into account throughout the criminal justice system. The standard adult court process produces a number of barriers to understanding and engagement for young adults.**

Use of complex and technical language, a formal and intimidating setting, and a process that is difficult to follow, contribute to an experience which is often bewildering for the young people involved.



There is now **clear evidence that how decisions in court are made and how the process feels to participants (a concept known as procedural fairness) can be as important as the sentence itself to young people's perceptions.**

A number of studies have demonstrated that defendants reporting a high level of procedural fairness are more likely to comply with court orders, to perceive laws and legal institutions as legitimate, and to obey the law in the future.



Procedural fairness matters for all, but is particularly important to young people.

Variation in maturity is not only directly related to offending, but also to the ability to understand the justice system and therefore to comply with court orders.



Existing youth courts embody significant procedurally fair practices not currently present in adult court, such as increased engagement and measures to aid participants' understanding of proceedings.

1. <http://www.t2a.org.uk/publications/#all>

2. See, for example: Casey B.J., Jones, R., Hare, T. (2008). The Adolescent Brain. *Ann NY Acad Sci.* 2008 Mar; 1124: 111-126.

3. Sentencing Council (2011). *Assault: Definitive Guideline.* London: Sentencing Council.

From reviewing the evidence, the legal framework and assessing youth court practice which could enhance the court response to young adults, we suggest a young adult court process would have the following features:

- (i) **specialist listings for young adults**
- (ii) **specialist judges and magistrates presiding over the hearings**
- (iii) **family involvement at court**
- (iv) **adapting procedurally fair courtroom language and communication, that is already practised in youth court**
- (v) **an adapted courtroom environment more conducive to engagement.**

Our study does not include any changes to sentencing options or powers which are currently under consideration.

Operational and administrative feasibility of developing a young adult court

We found that:

- The **majority of key stakeholders have demonstrated their support both for the concept of developing a young adult court and for delivering adapted practice** in line with the T2A principles.
- However, our attempts to engage **court service administrators were not successful, echoing similar attempts on other projects**. Overcoming this barrier would be vital in order to deliver a court in practice.
- **It is feasible to make a number of practical adaptations** in order to deliver a young adult court, although some negotiation would be needed between local partners on how to respond to several practical issues.

- Stakeholders also suggested **a number of other options that could enhance the proposed model**. These include increasing the involvement of services that can provide support, producing enhanced pre-sentence reports, and introducing post-sentence reviews for some community orders. It is possible that these suggestions may have resource implications.

Putting a young adult court into practice

We next considered the steps that would need to be taken by any court thinking about developing a pilot. This would involve the following:

- 01 Get the key stakeholders on board:** form a local stakeholder group which can sign up to the idea of a young adult court and oversee its development and implementation.
- 02 Agree eligibility criteria for the young adult court:** develop clear eligibility criteria and establish the projected volume of people who will use the court.
- 03 Clarify the problem the young adult court will aim to tackle:** research the problems of the young adults who will use the court and agree what the new process is aiming to improve — is it perceptions of fairness of the cohort, reductions in re-offending and/or reductions in the use of custody?
- 04 Design the workings of the pilot:** work with all relevant stakeholders and young people to develop a model for the pilot, including identifying what resources will be needed.
- 05 Plan the implementation process:** agree a start date for the pilot, identify actions needed to make this happen and ensure they are completed.
- 06 Evaluate from the start:** agree how the success of the young adult court will be measured and ensure mechanisms are in place before the start date.
- 07 Deliver the pilot:** meet regularly to review progress, identify learning and amend processes as required.

Scope of the Work

The Barrow Cadbury Trust, as part of its Transition to Adulthood (T2A) initiative commissioned the Centre for Justice Innovation to undertake a feasibility study on whether there could be a better court process for the young adult population, recognising the growing evidence around developmental maturity. Specifically, we looked at whether current youth court practice, which emphasises clear information and more active engagement with young people, could be adapted for young adults between 18 and 25, whose cases are currently heard in mainstream adult court, without making legislative changes to the sentencing options and powers of the court (which were outside the scope of this study.)

In order to develop what the principles of a young adult court could be, we examined the evidence base for a tailored court process for young adults and reviewed the legal framework around youth and adult courts to see if existing youth court practice could be adapted into it without legislative change.

We then looked at the operational and administrative feasibility for providing tailored arrangements for young adults and lastly identified the steps practitioners would need to take to put a tailored response to young adults in place.

Policy and Research Context

The Transition to Adulthood (T2A) Alliance, a coalition of criminal justice, health and youth organisations, has helped to establish a growing consensus that criminal justice system responses to the offending behaviour of young adults should reflect their variable developmental maturity and make allowances for their specific age-related needs.⁴

This consensus is underpinned by research on brain development in young adulthood which suggests that impulse control, reasoning and decision-making capabilities are in formation until mid-20s.⁵ We know that the brain's centres of reasoning and problem solving are among the last to fully develop.⁶ Even into their twenties, young adults may cognitively resemble young people more than adults. Broader social trends have also served both to prolong and disrupt the passage to adulthood – the average ages associated with marriage, childbirth and independent living have significantly shifted upward in recent decades.⁷

Aspects of justice system practice in England and Wales have adjusted accordingly. Adult sentencing decisions have, since 2011, included maturity as a mitigating factor.⁸ From 2013, the Crown Prosecution Service began taking maturity into account as part of its public interest test.

However, the court system to which someone is allocated continues to be driven purely by the chronological age of the defendant, rather than in specific response to individuals' developmental maturity or needs. The separation between youth court and adult court was established with the Children Act 1908, recognising that children and young people needed to be treated differently from adults. We now know that young adults are a developmentally distinct population. A chronological split between jurisdictions based on Edwardian evidence no longer reflects contemporary evidence.

4. <http://www.t2a.org.uk/publications/#all>

5. See, for example: Casey B.J., Jones, R., Hare, T. (2008). The Adolescent Brain. *Ann NY Acad Sci.* 2008 Mar; 1124: 111-126.

6. Social Exclusion Unit (2005). *Transitions: Young adults with complex needs.* London: Office of the Deputy Prime Minister.

7. See, for example: Office of National Statistics (2014). 8 facts about young people. Available: <http://www.ons.gov.uk/ons/rel/uncategorised/summary/facts-about-young-people/sty-facts-about-young-people.html>

8. Sentencing Council (2011). *Assault: Definitive Guideline.* London: Sentencing Council.

Developing the principles of a prototype young adult court

Procedural fairness, developmental maturity and the court process

Procedural fairness⁹ refers to the fairness of justice procedures and the interpersonal treatment of defendants and other participants in the justice system. In the context of courts, the key dimensions of procedural fairness include:

- **Respect:** defendants perceive that judges or magistrates, lawyers, and court staff treat them with dignity and respect;
- **Neutrality:** defendants perceive that decision-makers are neutral and competent, and that the decision-making process is accurate and unbiased;
- **Voice:** defendants feel that they have the opportunity to be heard, either directly or through their lawyer;
- **Understanding:** defendants understand proceedings, decisions, and the reasons behind decisions; and
- **Helpfulness:** defendants perceive that court practitioners are interested in their personal situation to the extent that the law allows.¹⁰

A number of studies have demonstrated that defendants reporting a high level of procedural fairness are more likely to comply with court orders, to perceive laws and legal institutions as legitimate, and to obey the law in the future.¹¹

Recent research suggests that procedural fairness may be significantly more important to young people than to adults.¹² This may be because young people are especially attuned to perceptions of unfairness and signs of respect.¹³ Empirical research has identified that young people's perception of their sentencer has the largest influence on their views of the overall legitimacy of the justice system, even when controlling for the outcome of their case.¹⁴ The atmosphere of the courtroom itself has also been found to be significantly related to perceptions of legitimacy: young people who "experienced an atmosphere of confusion and unprofessionalism tended to view the entire justice system as less legitimate" than young people who had a better court experience.¹⁵

These findings highlight that young people's perceptions of court procedures have a strong effect on how they view the justice system as a whole. As noted, procedural fairness research has repeatedly determined that perceptions of legitimacy are a key determinant of future adherence with the law.¹⁶ At the same time, standard adult court practice generates a number of potential barriers to procedural fairness for young adults: the process can be difficult to understand, with complex and technical language; intimidating, within an uncomfortably formal setting; and lacking in opportunity for direct engagement.

9. Also known as "procedural justice."

10. Berman, G., Gold, E. (2012). Procedural Justice from the Bench: How Judges Can Improve the Effectiveness of Criminal Courts. *Judges Journal*, 51 (2), 20-22.

11. Gottfredson, D., Kearley, B., Najaka, S., Rocha, C. (2007). How Drug Treatment Courts Work: An Analysis of Mediators. *Journal of Research in Crime and Delinquency* 4: 3: 3-35; Rossman, S., Roman, J., Zweig, J., Rempel, M., and Lindquist, C. (eds.). *The Multi-Site Adult Drug Court Evaluation*. Washington, DC: The Urban Institute; Tyler, T. and Huo, Y. (2002). *Trust in the Law*. New York, NY: Russell Sage Foundation.

12. Murphy, K. (2015). Does procedural justice matter to youth? Comparing adults' and youths' willingness to collaborate with police. *Policing and Society*, 25(1), 53-76.

13. Murphy, K., Gaylor, A. (2010). Policing youth: Can procedural justice nurture youth cooperation with police? Alfred Deakin Research Institute, Working Paper no. 6.

14. Sprott, J., Greene, C. (2008). Trust and Confidence in the Courts: Does the Quality of Treatment Young Offenders Receive Affect Their Views of the Courts? *Crime and Delinquency*, 12 March 2008. Cited in Lacey, L. (2012). "Youth Justice in England and Wales: Exploring young offenders' perceptions of restorative and procedural justice in the referral order process."

15. Greene, C., Sprott, J., Madon, N., Jung, M. (2010). Punishing Processes in Youth Court: Procedural Justice, Court Atmosphere and Youths' Views of the Legitimacy of the Justice System. *Canadian Journal of Criminology and Criminal Justice*, 52(5), 527-544. Cited in Lacey, L. (2012). "Youth Justice in England and Wales: Exploring young offenders' perceptions of restorative and procedural justice in the referral order process."

16. Tyler, T. and Huo, Y. (2002). *Trust in the Law*. New York, NY: Russell Sage Foundation.

Procedural fairness in youth court

Children and young people aged between 10 and 17 are mainly dealt with in youth courts, where cases are heard by specially trained magistrates in a less formal setting intended to promote increased engagement with defendants. Aspects of the youth court's practice appear to chime with emerging research evidence around procedural fairness. It is differentiated by an emphasis on engagement, with specially trained magistrates speaking directly to the young person and their parent or guardian. Plain language is encouraged to aid participants' understanding of proceedings. Many hearings are held within an adapted courtroom layout intended to be less formal.¹⁷ While a recent review of the operation of youth courts reported that a number of these practices could be improved,¹⁸ youth courts are highly likely to be better at procedural fairness than adult courts. The conclusion we therefore reached is that expanding key aspects of their practice to young adults may improve decision-making on an individual basis, perceptions of legitimacy, and rehabilitation.

The features of a young adult court process

From reviewing the evidence and assessing current relevant youth court practice, we suggest a young adult court would have the following features, to make it distinct from mainstream adult courts. These will be explained further below:

- (i) Specialist listings for young adults;
- (ii) Specialist judges and magistrates presiding over the hearings;
- (iii) Family involvement at court;
- (iv) Adapting existing youth court 'procedurally fair' courtroom language and communication, including
 - a. Using plain language in court hearings;

- b. Verbal engagement with defendants;
 - c. An emphasis on the importance of non-verbal communication.
- (v) An adapted courtroom environment more conducive to engagement.

On reviewing the relevant legislation (see Appendix A), all these practices could be applied in an adult court environment. However, there are a number of aspects of current youth court practice which could not be applied under current legislation. The most relevant are:

- **Separate facilities:** the obligation to provide separate facilities for young people would remain, meaning young adults would need to be kept apart from under-18s.
- **Closed court:** there are statutory obligations upon the magistrates' court to sit in open court, unless there are express statutory provisions to the contrary. The court does have inherent power to regulate its own proceedings. However, guidance from the Senior Presiding Judge states "*departure from the open justice principle is exceptional. It must be justified as necessary for the avoidance of the frustration of the administration of justice or the rendering of it impracticable.*"
- **Publicity of the case:** there are only exceptional restrictions which can be used to prevent publicity of hearings (primarily around cases involving sexual violence) and these only protect the witness or victim.

17. Judicial College (2013). Youth Court Bench Book.

18. Wigzell, A (2014). Independent Parliamentarians' Inquiry into the Operation and Effectiveness of the Youth Court, Chaired by Lord Carlile of Berriew CBE QC.

Operational and administrative feasibility of developing a young adult court process

In order to understand the potential and the barriers to delivering a young adult court process in practice, we reviewed relevant court protocols and met with a range of stakeholders in the West Midlands to discuss how it could work. We looked at each feature in turn.

Specialist listings for young adults

A young adult court process would require identification of appropriate cases and listing in specified young adult sittings. Day-to-day operation of listings is the responsibility of justices' clerks assisted by listing officers; overall listing practice is determined by area Judicial Business Groups supervised by the Presiding Judges of the circuit.¹⁹ Listing decisions are meant to ensure that cases are heard quickly, balanced against the need that they be heard by an appropriately experienced bench in properly provisioned courtrooms among other considerations.²⁰ Many areas already have some form of specialist court, or otherwise list similar cases of various types together in the same courtroom on the same day. There may be useful parallels in these processes.

In catering for specialised listings, the court would have to negotiate potential tension between available young adult court sitting days and specific applicable time limits set by the Criminal Procedural Rules and other legislation, as well as a general ambition to provide swift justice. This tension was flagged up by many of the stakeholders we spoke to.

Specialist judges and magistrates presiding over the hearings

A proposed means of delivering the young adult court process would be to use youth trained

sentencers to preside over the hearings. This has the advantage of using sentencers who have demonstrated interest in young people, would have received training on engagement, and are experienced with adapting their approach and pronouncements depending on the individuals they are dealing with. As ticketed youth court magistrates are currently required to have spent at least two years' in adult magistrates' court prior to specialising, they would also need to have experience of adult courts.

In addition, it is clear from our discussions locally and nationally that recent years have seen a sustained nationwide fall in the volume of cases coming to youth court. This means that there is some additional capacity on the part of youth-trained sentencers within which an adapted approach for young adults could be tested. Stakeholders suggested that as a result of these drops in caseload, many youth court sentencers were not frequently exercising their specialism. This arrangement would have the added benefit of allowing interested sentencers to continue to work with young people.

Family involvement at court

In our discussions, there were a few issues raised about families accompanying young people to court in young adult sittings. While a young adult court could not require the participation of family, it could encourage the attendance and involvement of parents or guardians which may help to demonstrate that the court is concerned with the defendant as an individual. Bail notices could be written in language which would encourage parent/guardian attendance, alongside details of the court hearing. The majority of the stakeholders we spoke to suggested that this was for the most part something to be encouraged, though some discretion may be needed for those cases where family involvement may not improve the court process.

19. Criminal Practice Directions Division XIII: Listing, A.2(d).

20. Criminal Practice Directions Division XIII: Listing, A.2(d), (e).

Adapting existing youth court ‘procedurally fair’ courtroom language and communication

Measures in line with youth court practice, including avoiding unnecessary jargon, confirming comprehension, and avoiding yes/no questions, could be expected to improve defendants’ perceptions of the court process. Taking into account non-verbal communication (including use of eye contact) can also make a difference.

Some stakeholders expressed unease at the prospect of direct engagement with defendants. While sentencers may not be explicitly encouraged to engage directly with defendants outside youth courts, they can still use their training and experience to improve communication and understanding.

An adapted courtroom environment

Our discussions suggested that this could be done either by using youth court courtrooms (which are often smaller, and on one level) or considering changes to standard courtrooms which would improve engagement. This adaption for young adult courts may improve defendants’ perceptions of procedural fairness.

The fall in the number of youth court cases was seen as creating a possible opportunity. Many youth courts sit only part-time meaning use of their adapted facilities for young adults on days without youth court sittings may be possible. If it was possible to schedule young adult court sittings on separate days to youth court, this practice would also overcome the legal issue of ensuring young adults are kept separate from under-18s.

Other possible changes

In our discussions, stakeholders also proposed a number of other potential changes not directly imported from youth court. These include:

- increased involvement of services around education, job training, and cognitive behavioural help at court;

- enhanced pre-sentence reports, potentially through use of specialist caseworkers for this age group; and
- introducing post-sentence reviews for some community orders.

These suggestions could significantly enhance the proposed model of a young adult court process, though may have resource implications that would need to be addressed locally. Potential resource implications are outlined in Appendix C.

Buy-in from essential stakeholders

As part of our study, we spoke to a number of those stakeholders that would be required to support the trial of a young adult court. This includes the National Probation Service, Community Rehabilitation Companies (CRCs), Youth Offending Teams and members of the judiciary. There was enthusiasm for the approach from everyone we spoke to, with a clear recognition of potential benefits that a young adult court could offer and a willingness to adapt their practice. Anticipated involvement of local agencies is briefly described in Appendix C.

During the course of our work we attempted to engage with the court service. Engagement with local court administrators was referred to regional and then national colleagues and to date there has been no substantive conversation with them. This echoes similar attempts to engage with them on other projects. Given that many of the proposed changes would require their support and involvement, this is a particularly significant issue that would need to be resolved. Overcoming this would be crucial in any area interested in establishing a young adult court.

CONCLUSION

The overall finding emerging from this research is that it would indeed be feasible to deliver a young adult court, although some negotiation would be needed between local partners on how to respond to a number of practical issues.

Putting a young adult court into practice

With the legal position, practical amendments and buy-in all suggesting a young adult court is feasible, we next considered the steps that would need to be taken by any court considering developing a pilot.

01 Get the key stakeholders on board

While it is clear from our research that many stakeholders are supportive of the idea of trialling a young adult court and of delivering adapted practice to support it, we also found some key agencies did not want to engage with the idea. For a young adult court to become a reality, a local stakeholder group needs to be developed that includes the magistracy, judiciary, court service, the national probation service and other local partners. This group should serve to set the vision for the pilot and to oversee its development and implementation, including reviewing progress and learning.

02 Agree eligibility criteria for the young adult court

It is clear that any court considering piloting the idea would need to decide for which young adults such a court would be appropriate. Two clear suggestions emerged from our preliminary research that could form the basis of these discussions locally.

Age eligibility: while the best available evidence points to developmental maturity not being achieved until the mid-twenties, several stakeholders we spoke to were less comfortable with setting an upper age limit of

25 for a young adult court (several suggested beginning with 21). An upper age limit could be decided locally. Alternatively, decisions around what adaptations need to be applied could be made on a case-by-case basis.

Type of case: for a young adult court to work as outlined in this report, 'either way' cases (cases that can be heard in either magistrates' or crown court) must stay in the magistrates' court, at least until sentencing. We presume that indictable offences heard in crown court would not be eligible for an adapted process. Recent legislative changes are intended to increase the number of young people tried in youth court instead of crown court.²¹

Once the eligibility criteria have been established, work should be undertaken to understand the projected volume of cases that would be heard in the young adult court during the pilot.

03 Clarify the problem the young adult court will aim to tackle

Beginning with the case for trialling a young adult court as outlined in this study, local stakeholders will need to agree what outcomes they hope to achieve throughout the trial. This will involve considering the characteristics of the young adults who will use the court to build a better understanding of their specific risks and needs. It should also include an assessment of the barriers the court would face in achieving the outcomes and a clear vision of how this adapted practice could reduce these.

04 Design the operational details of the pilot

The details of the model will have to be shaped to fit within existing legal frameworks and protocols while also satisfying agency-specific incentives. Significant agency support and judicial leadership will be necessary and

21. See Criminal Justice and Courts Act 2015, Section 53.

CONCLUSION

consultation should take place with strategic and operational staff to develop, stress test and finalise the model. It would also be beneficial to involve young adults in this development process in order to incorporate practices that respond directly to difficulties they perceive and/or have experienced within adult court. While we believe that most of the changes outlined here have little or no cost implication, the stakeholder group should consider whether resources such as staff and premises will need to be deployed differently, as well as whether additional resources are necessary to set the project up, manage it, and support evaluation costs.

05 Plan the implementation process

Once a model has been agreed with all partners, the stakeholder group will need to develop an implementation plan. This should include timescales for beginning the pilot as well as what needs to be done in advance such as amending court protocols or training dedicated staff. Implementation will require strong multi-agency co-operation and dedicated project management. Who will do what and when should be clarified.

06 Evaluate from the start

Project evaluation should be embedded from the beginning of the pilot based on the outcomes identified during stage 3 above. Some initial considerations can be found in Appendix B.

07 Deliver the pilot

Once the pilot is up and running, ensure that the stakeholder group meets regularly to review progress. Clear processes should be in place to make decisions where practice needs to be amended or clarified in the event of unforeseen scenarios. Performance data should be made available so that the group can see what is working and where changes to the model may be necessary. Members of this group should also then support these changes to be put into operation within their own organisations.

APPENDIX A: Review of Legislation

This review considers the legal requirements of the sitting and operations of youth court and adult court, in order to specifically identify:

- the legal differences between the adult court environment and the youth court environment;
- whether current legislation would allow for young adults to be heard in such a way that is consistent with a ‘youth court environment’; and
- whether youth trained sentencers can switch from youth cases to adult cases within the same sitting.

This review does not encompass the differing arrangements for sentencing options of youth and adult cases

Findings

What are the legal requirements of the sitting and operations of youth court that mark it as different from adult court?

The table below describes the legal requirements of the sitting and operations of youth court which differ from adult court arrangements.

Factor	Youth court in law
Scope of court jurisdiction in criminal matters with people under 18	<p>“An Act to consolidate certain enactments relating to persons under the age of eighteen years.” Source: Section 1 of the Children and Young Persons Act 1933</p> <p>““Child” means a person under the age of fourteen years; “young person” means a person who has attained the age of fourteen and is under the age of eighteen years.” Source: Section 107 of the Children and Young Persons Act 1933</p> <p>“It shall be conclusively presumed that no child under the age of [F1 ten] years can be guilty of any offence.” Source: Section 50 of the Children and Young Persons Act 1933, as amended Children and Young Persons Act 1963 (c. 37), s. 16(1) [F1]</p>
General provisions	<p>“Every court in dealing with a child or young person who is brought before it, [F2 either as an offender or otherwise], shall have regard to the welfare of the child or young person and shall in a proper case take steps for removing him from undesirable surroundings, and for securing that proper provision is made for his education and training.” Source: Section 44 of the Children and Young Persons Act 1933, as amended by Children and Young Persons Act 1969 (c. 54), Sch. 6 [F2]</p>
Constitution of courts	<p>“(1) Magistrates’ courts — (a) constituted in accordance with this section or section 66 of the Courts Act 2003 (judges having powers of District Judges (Magistrates’ Courts)), and (b) sitting for the purpose of— (i) hearing any charge against a child or young person, or (ii) exercising any other jurisdiction conferred on youth courts by or under this or any other Act, are to be known as youth courts. (2) A justice of the peace is not qualified to sit as a member of a youth court for the purpose of dealing with any proceedings unless he has an authorisation extending to the proceedings. (3) He has an authorisation extending to the proceedings only if he has been authorised by the Lord Chief Justice, with the concurrence of the Lord Chancellor, to sit as a member of a youth court to deal with— (a) proceedings of that description, or (b) all proceedings dealt with by youth courts.” Source: Section 45 of the Children and Young Persons Act 1933</p>

APPENDIX A: Review of Legislation

Factor	Youth court in law
Bail and remand decisions	<p>“The defendant need not be granted bail if the court is satisfied that the defendant should be kept in custody for his own protection or, if he is a child or young person, for his own welfare.”</p> <p><i>Source: Bail Act 1976, Schedule 1</i></p>
Separate facilities	<p>“Arrangements shall be made for preventing a child or young person while detained in a police station, or while being conveyed to or from any criminal court, or while awaiting before or after attendance in any criminal court, from associating with an adult (not being a relative) who is charged with any offence other than an offence with which the child or young person is jointly charged, and for ensuring that a girl (being a child or young person) shall while so detained, being conveyed, or waiting, be under the care of a woman.”</p> <p><i>Source: Section 31 of the Children and Young Persons Act 1933</i></p>
Family involvement at court	<p>“(1)Where a child or young person is charged with an offence or is for any other reason brought before a court, the court—</p> <p>(a) may in any case; and</p> <p>(b) shall in the case of a child or a young person who is under the age of sixteen years, require a person who is a parent or guardian of his to attend at the court during all the stages of the proceedings, unless and to the extent that the court is satisfied that it would be unreasonable to require such attendance, having regard to the circumstances of the case. “</p> <p><i>Source: Section 34 of the Children and Young Persons Act 1933</i></p>
Closed court	<p>“(2) No person shall be present at any sitting of a [F3 youth court] except—</p> <p>(a) members and officers of the court;</p> <p>(b) parties to the case before the court, their [F4 legal representatives], and witnesses and other persons directly concerned in that case;</p> <p>(c) bonâ fide representatives of newspapers or news agencies;</p> <p>(d) such other persons as the court may specially authorise to be present.”</p> <p><i>Source: Section 47 of the Children and Young Persons Act 1933, as amended by Criminal Justice Act 1991 (c. 53, SIF 39:1) [F3] and by [F4] Legal Services Act 2007</i></p>
Closed testimony	<p>“Where, in any proceedings in relation to an offence against, or any conduct contrary to, decency or morality, a person who, in the opinion of the court, is a child or young person is called as a witness, the court may direct that all or any persons, not being members or officers of the court or parties to the case, their legal representatives, or persons otherwise directly concerned in the case, be excluded from the court during the taking of the evidence of that witness:</p> <p>- Provided that nothing in this section shall authorise the exclusion of bonâ fide representatives of a newspaper or news agency.”</p> <p><i>Source: Section 37 of the Children and Young Persons Act 1933</i></p>
Publicity of the case	<p>(1) In relation to any proceedings in any court, the court may direct that—</p> <p>(a) no newspaper report of the proceedings shall reveal the name, address or school, or include any particulars calculated to lead to the identification, of any child or young person concerned in the proceedings, either as being the person by or against or in respect of whom the proceedings are taken, or as being a witness therein;</p> <p>(b) no picture shall be published in any newspaper as being or including a picture of any child or young person so concerned in the proceedings as aforesaid;</p> <p>except in so far (if at all) as may be permitted by the direction of the court.</p> <p>(2) Any person who publishes any matter in contravention of any such direction shall on summary conviction be liable in respect of each offence to a fine not exceeding [level 5 on the standard scale].”</p> <p><i>Source: Section 39 of the Children and Young Persons Act 1933, as amended by Criminal Justice Act 1982 (c. 48, SIF 39:1), ss. 38, 46.</i></p>

APPENDIX A: Review of Legislation

Factor	Youth court in law
Publicity of the case <i>Continued</i>	<p>“Restrictions on reports of proceedings in which children or young persons are concerned.</p> <p>(1) The following prohibitions apply (subject to subsection (5) below) in relation to any proceedings to which this section applies, that is to say –</p> <p>(a) no report shall be published which reveals the name, address or school of any child or young person concerned in the proceedings or includes any particulars likely to lead to the identification of any child or young person concerned in the proceedings; and</p> <p>(b) no picture shall be published or included in a programme service as being or including a picture of any child or young person concerned in the proceedings.”</p> <p><i>Source: Section 49 of the Children and Young Persons Act 1933, as amended by Criminal Justice Act 1982 (c. 48, SIF 39:1), ss. 38, 46</i></p>
Purposes of sentencing	<p>Passed but not enacted</p> <p>“(3)Those purposes of sentencing are—</p> <p>(a) the punishment of offenders,</p> <p>(b) the reform and rehabilitation of offenders,</p> <p>(c) the protection of the public, and</p> <p>(d) the making of reparation by offenders to persons affected by their offences.”</p> <p><i>Source: Section 9 of the Criminal justice and Immigration Act 2008</i></p>

Would current legislation allow for young adults to be heard in such a way that is consistent with a ‘youth court environment’?

The following aspects of the youth court model appear to be adaptable to a young adult court:

- **Family involvement at court:** there do not appear to be restrictions *preventing family members* being directed or encouraged to attend court.
- **Plain language:** there do not appear to be specific prohibitions against use of language intended to be comprehensible, or with assisting and confirming defendants’ understanding of legal jargon
- **Sentencer demeanour:** the demeanour of sentencers does not appear to be specifically outlined. Non-verbal cues, including awareness of body language, engaged and active listening, and other non-verbal cues should not be prohibited.
- **Engagement:** while sentencers may not be explicitly encouraged to engage directly with defendants outside youth court, they can still use their training and experience to improve defendants’ understanding of the court process.
- **Adapted environment:** the court must be overseen by an authorised judge or magistrate; nothing explicitly prohibits use of youth courtrooms, which tend to be smaller, and often arranged on one level.

Legislation suggests that the following features would not be directly applicable:

- **Bail:** bail decisions would be made in line with the Bail Act 1976.
- **Separate facilities:** the obligation to provide separate facilities would remain, and under 18s would need to be separated from young adults. Many youth courts only sit on a part-time basis; use of their facilities with adaptations for young adults on days without youth court sittings may be possible.

APPENDIX A: Review of Legislation

- **Closed court:** there are statutory obligations upon the magistrates' court to sit in open court, unless there are express statutory provisions to the contrary. The court does have inherent power to regulate its own proceedings. However, guidance from the Senior Presiding Judge states "departure from the open justice principle is exceptional. It must be justified as necessary for the avoidance of the frustration of the administration of justice or the rendering of it impracticable." In practice the majority of young adult cases would be unlikely to attract a full gallery.
- **Closed testimony:** Section 25 of the Youth Justice and Criminal Evidence Act 1999 permits the court to exclude persons of any description from the court, during the evidence of a child or vulnerable adult witness on cases relating to a sexual offence, or where there are grounds for believing that the witness has been, or may be, intimidated. However, it was not envisaged that the press should routinely be excluded alongside the rest of the public, even in such exceptional cases. Moreover, even if the media are to be excluded, one nominated representative must be permitted to remain. In practice, media interest in young adult proceedings is likely only in exceptional cases.
- **Publicity of the case:** there are only exceptional restrictions which can be used to prevent publicity of hearings (primarily around cases involving sexual violence) and these only protect the witness or victim.

Can youth trained sentencers switch from youth cases to adult cases within the same sitting?

The legislation suggests a youth court is solely constituted as a court in which an authorised judge or magistrate sits. Therefore, a specialist youth judge could hold a court with youth and then switch the same court to hear young adult cases. However, they would have to ensure the arrangements above were in place.

APPENDIX B: Outline Evaluation Considerations

An evaluation of the pilot project should seek to understand how court practice in a young adult court is experienced by defendants with particular reference to components of procedural justice, and to further test if these perceptions are related to future behaviour.

In support of this, the table below (adapted from Farley (2014)²²) summarises factors of interest used in prior procedural justice research. This is only intended to provide a potential list of interest; it is unlikely that an evaluation would have the capacity to measure all of these factors.

Baseline	Baseline Perceptions	Procedural Justice Dimensions	Global Perceptions	Defendant Behaviour
Socio-Demographics <ul style="list-style-type: none"> • Age • Sex • Race/ Ethnicity Criminal Justice Characteristics <ul style="list-style-type: none"> • Criminal history • Current charges • Bench makeup • PSR 	Legitimacy of court process Defendant expectations of procedural justice	Dimension <ul style="list-style-type: none"> • Voice • Trust • Respect • Understanding • Helpfulness Court practitioners <ul style="list-style-type: none"> • Mags/DJ • Prosecutor • Defense solicitor • Non-judicial court staff 	Judicial Fairness Court Procedural Justice Distributive Justice	Compliance <ul style="list-style-type: none"> • Expected (OGRS) • Actual (breach, reconviction) Sentencer review Fine repayment Referral take-up

Pre-implementation research

As part of the pilot planning process, a baseline picture of the court experience should be developed. This might include semi-structured interviews with defendants and court practitioners on their perceptions of the court process. Structured courtroom observations could also focus on processes, atmosphere, and courtroom communication.²³

Post-implementation research

Further courtroom observation could allow for comparison between pre- and post-implementation periods. Interviews with court users following the conclusion of their case (either immediately or through scheduled follow-up) should also be included. Prospects for tracking future justice-system involvement among participants should be explored with the project's partners.

Court user focus group

Several months into operation, a focus group (or groups) should be conducted with professional court users (potentially including solicitors, legal advisors and other courts staff, magistrates, district judges, probation officers, victim support workers, and any other relevant persons) to discuss the implementation of the project and their views of its operation.

22. Farley, E., Jensen, E., Rempel, M. (2014). Improving Courtroom Communication: A Procedural Justice Experiment in Milwaukee. Center for Court Innovation.

23. Adaptable courtroom observation instruments can be found here: <http://www.courtinnovation.org/procedural-justice-practical-tips-and-tools>.

APPENDIX C: Anticipated Involvement of local agencies in a pilot young adult court

Agency	Post	Input	Resource implications	Benefits
HMCTS	Justices' clerk	Authorisation	Designate representative for stakeholder group	Efficiency (repurposed underused youth courtrooms; possible higher capacity)
	Deputy justices' clerk	Authorisation/ governance role	Operational oversight, participation in stakeholder group	Fewer breaches (to be tested in evaluation)
	Court manager	Operational support (court allocation/layout)	Change in court use	Increased fine repayment (to be tested in evaluation)
	Listings clerk	Responsibility for specialist listings	Change in listings procedure	Improved court experience (to be tested in evaluation)
	Legal adviser	Awareness, possible member of stakeholders group	Possible post-sentence reviews, participation in stakeholder group	
	List caller	Operational support	Possible involvement of extra agencies in court	
Judiciary & Magistry	Chair of bench	Awareness		Increased compliance with court orders (to be tested in evaluation)
	Chair of youth bench	Governance role	Participation in stakeholders group	
	Youth-ticketed DJs	Sit in young adult court, possible post-sentence reviews	Possible post-sentence reviews	Expanded use of specialism, opportunity for increased feedback through reviews
	Youth magistrates	Sit in young adult court, possible post-sentence reviews	Possible post-sentence reviews	Expanded use of specialism, opportunity for increased feedback through reviews
Probation - NPS	Head of Court Operations	Governance role	Designate representative for stakeholder group; re-allocated staff	Increased compliance with court orders (to be tested in evaluation)
	Dedicated young adult staff	Dedicated young adult PSRs, awareness of YA-appropriate support	Possible staff re-allocation, possible post-sentence reviews	Improved court experience (to be tested in evaluation)
Probation - CRC			Awareness of young-adult specific support	
YOT	Court lead	Awareness	Possible service user engagement	
CPS		Awareness	If youth-specific prosecutors, possible re-allocation	
Solicitors		Awareness		Improved court experience (to be tested in evaluation)
Young adult programme service providers	Service manager	Possible attendance at court sessions, representative for stakeholder group	Possible staff re-allocation	Referrals to services

YOUNG ADULTS IN COURT:

Developing a tailored approach

The Centre for Justice Innovation believes our criminal courts should be fairer and should seek to resolve the problems of those who come into contact with them rather than simply process cases. In its work, the Centre stresses the need for thorough planning and implementation, recognising also that innovation is best developed in close harmony with local needs and arrangements.

Research already suggests that young adults have more positive outcomes when they receive tailored and specialist support. A number of studies published in the last six years suggest that when this is combined with procedural justice methods, including judicial monitoring (e.g. regular court reviews in front of a trained judge), it can reduce reoffending.

T2A has a growing body of evidence that criminal justice agencies should take into account the maturity of a young adult involved in crime, and not just their chronological age, when making decisions about interventions and in their delivery.

In this report, the Centre for Justice Innovation, in support of the T2A programme, analyses the feasibility for young adult courts.



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and funded by:



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