



**Response to the Northern Ireland Court Service's Draft Revised  
Guidelines for Operation and Layout of the Youth Court.**

**December 2005**

## **Introduction**

Include Youth promotes best practice with young people at risk of social exclusion. We achieve this through the development and promotion of resources, the provision of training, information and support of practitioners and organisations. We also undertake activities which attempt to influence public policy and public awareness locally and nationally.

Include Youth promotes the development of positive choices and opportunities for vulnerable and challenging young people whether in the community, residential care or custody. Include Youth promotes the use of community alternatives to care and custody for children and young people.

Amongst the young people at risk with whom, and on whose behalf Include Youth works are young people from socially disadvantaged areas, those with a learning disability, those with special needs, those who have been truanting, suspended or expelled from school, those from a care background, those who have had a negative parenting experience, young people who have committed or are at risk of committing crime, misusing drugs or alcohol, undertaking unsafe sexual behaviour or other harmful activities, or of being harmed themselves.

In addition, Include Youth runs a participation project, called Young Voices, for young people who have experience of the criminal justice system. Young Voices aims to facilitate young people who have been in conflict with the law to actively and effectively become involved in decision-making processes which impact upon their lives. Young Voices has not had an opportunity to participate in this consultation process, however, the group has recently produced an audio-visual presentation for the Law Society which was used in a training event for members of the legal profession on the issue of 'the Changing Face of the Youth Court'. We have enclosed for your information a written copy of the comments made by the Young Voices participants which were included in the audio-visual presentation. Young Voices is very keen to work with key agencies, such as the NICS, to ensure that policy, practice and service delivery is truly reflective of and responsive to the rights and needs of young people who have been on the receiving end of such policies etc.

## **General Comments**

Include Youth welcomes the opportunity to comment on the NI Court Service's Draft Revised Guidelines for Operation and Layout of the Youth Court. We note that this is effectively the second stage of consultation undertaken by NICS in respect of this draft policy, and commend NICS for adopting this approach.

The importance of the issue of Layout and Operation of the Youth Court to the protection of children's rights has been well documented. It raises issues of fair trial and in particular matters concerning 'effective participation', which are rights afforded to children and young people through both domestic law and international standards. The particular instruments include European Convention on Human Rights - Article 6, United Nations Convention on the Rights of the Child – Articles 12 and 40, UN Standard Minimum Rules for the Administration of Juvenile Justice (Beijing Rules) – Rule 14. In addition, this issue has been tested at the European Court of Human Rights in the landmark case *T&V v UK* [2000] 30 EHRR 121 [2000] All ER 1024. Moreover, issues concerning the Operation and Layout of the Youth Court have been consistently raised by Lord Clyde, the Justice Oversight Commissioner. Include Youth recommends that this policy should expressly make reference to these domestic and international human rights and children's rights standards.

Children have a right to be consulted about decisions affecting them (Article 12 UN Convention on the Rights of the Child), and if the policy is to be effective it is important that children and young people are given the opportunity to contribute to the policy process, at all stages. In addition, Include Youth submits that a version of this draft policy should be produced in forms accessible to children and young people of different ages, telling them about the policy and about how they should expect when attending court. We would therefore be grateful if you would forward copies of your child accessible format of this document, and if you could provide us with details of how you have or intend to consult directly with children and young people as the group likely to be impacted upon most by the implementation of this draft Policy in order to comply with Section 75 of the Northern Ireland Act 1998 and Article 12 of the UNCRC.

In respect of the process of consultation, we are concerned as it appears that this policy has been screened out for the purposes of s.75. Include Youth believes that this policy could potentially adversely impact upon a number of groups of people protected under s 75 of the NI Act 1998, for example, children and young people with a disability and those from black and minority ethnic communities, for whom English is not their first language. In our view, in order to fully comply with its statutory duty, NICS should expressly include information on the process and outcomes of the screening referred to at paragraphs 31 and 32.

We have now outlined a number of specific issues raised in the document.

## **12. Entrances and Waiting Areas**

Firstly in relation to Waiting Areas, we agree that NICS should ensure that people attending the youth court do not come into contact with people attending other courts. And while it is stated that ‘some’ court venues can provide a separate waiting area, we do not believe that this goes far enough, as it does not extend throughout all Youth Courts. Include Youth recommends that resources must be located to provide facilities which will ensure that all children attending Youth Courts across Northern Ireland will not be ‘exposed to intimidation, offensive language or abuse’.

## **13. Courtroom Layout**

Whilst we agree with the statement that ‘it is important that victims and witnesses are comfortable in court and do not feel intimidated or threatened’, we believe that this is unnecessarily narrow. Include Youth believes that it is equally important that children and young people who attend the Youth Courts as defendants must also be afforded these protections, therefore we recommend that this statement expressly includes child defendants.

## **16. Seating Arrangements for the Child**

We strongly agree with the statement at the beginning of this section that ‘all possible steps should be taken to help the child understand and take part in the proceedings’. We believe that this statement should be included much more prominently and earlier in the draft policy, as it has overarching relevance which underpins the entire policy.

## **17. Hearing and Understanding Proceedings**

Once again, in this section Include Youth believes that the particular issues around hearing and understanding proceedings for child defendants which are so crucial in terms of their effective participation, and right to a fair trial, should be more expressly dealt with. In respect of the issue of ‘regular breaks’ at paragraph 18, it is unclear on what basis such a decision will be taken – will this be on application by the child’s legal representative and what criteria will be applied.

## **Conclusion**

Include Youth welcomes the opportunity to be involved in the Northern Ireland Court Service consultation on the Revised Guidelines for the Operation and Layout of the Youth Court. We are committed to working alongside you to help ensure that the NICS fully takes into account the rights and best interests of all children and young people, understands and is responsive to the complexities of the lives of young people who come into conflict with the law. We hope that our comments have been constructive and useful to the NICS and are more than happy to meet with you to discuss anything in this response. We wish to be kept fully informed of progress in the development of the Northern Ireland Court Service consultation on the Revised Guidelines for the Operation and Layout of the Youth Court and look forward to the issues raised and recommendations made in this response being addressed, taken forward by the Court Service and hearing from you in the near future. We also look forward to receiving the child accessible version of this consultation document. In addition, we would be grateful to receive a copy of your analysis of responses when same becomes available.