



## Standing Committee for Youth Justice

### **Standing Committee for Youth Justice written evidence submission – Public Accounts Committee: Transforming Courts and Tribunals Inquiry**

#### **Summary**

The Standing Committee for Youth Justice (SCYJ) is an alliance of fifty non-profit organisations working for a better youth justice system in England and Wales. We advocate a child-focused youth justice system that promotes the integration of children in trouble with the law into society and tackles the underlying causes of offending.

SCYJ has concerns that there has been a general lack of consideration of the distinct needs of children in the HMCTS Reform Programme, and the impact reforms may have on children's rights and justice outcomes. This is likely to impact on projected costs and benefits.

SCYJ believes the reforms are unlikely to produce significant cost savings, and will reduce the service available to vulnerable users, threatening access to justice.

Our response focuses on the HMCTS Reform Programme in the criminal courts, especially on the use of video links and online pleas with child defendants (under the age of 18).

#### **Response**

The HMCTS Reform Programme aims to modernise processes and systems, reducing demand on court buildings by moving activity out of courtrooms. This includes the expansion of video hearings and online pleas.

SCYJ has serious concerns that the use of video links and online pleas may significantly damage a child's ability to understand, participate, and engage appropriately with proceedings. Yet in the most recent Programme Business Case (November 2017), the anticipated savings from indications of pleas being made online; efficiencies in conducting hearings including use of video technology; and efficiencies in case progression were just £14m.<sup>1</sup>

As well as this, the business case projections only quantify benefits in terms of savings to HMCTS and the Crown Prosecution Service. The cost and benefit calculations exclude estimated impacts on other organisations. While moving processes online may save HMCTS the cost of running physical court hearings and staffing court cells, the reforms put pressure on other under-funded agencies to invest in new technology suites and employ supervising staff to facilitate video hearings. These costs are not considered.

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<sup>1</sup> <http://www.transformjustice.org.uk/wp-content/uploads/2018/05/jwow-2022-crime.pdf>



Neither HMCTS nor the MoJ hold any data, nor have they carried out any research on the effect on child defendants of video links, yet we have heard anecdotal evidence that the use of video links is increasing. SCYJ recently reviewed research on the impact of video links on child defendants<sup>2</sup>, attempting to address the dearth in research into the impact of court modernisation on court users, especially children. The resultant report raises concerns that video links erode levels of communication and support between child defendants, their lawyers, youth offending teams and family, exacerbating issues children already experience with understanding and appropriately engaging with court processes. If children are unable to effectively participate in video link proceedings, interfering with their right to a fair trial, the expansion of such hearings will risk an increase in unlawful convictions, miscarriages of justice, and therefore judicial reviews and appeals. This would risk negating any cost savings HMCTS has anticipated, while damaging a child's wellbeing and undermining trust in the justice system.

Our research also raised concerns that the use of video links negatively prejudice justice outcomes, with testimony that children may be more likely to be refused bail and remanded to custody when appearing via video link. As well as this, it is more difficult to gauge mitigating factors such as mental health and communication difficulties over video link, and children's behaviour and perceptions of their behaviour can be affected. This may increase the severity of sentence children receive when sentenced over video link. If children are more likely to be remanded to custody and receive more severe sentences over video link, the cost savings to HMCTS of using video links would be quickly negated elsewhere by increased custody costs. These indications from our research are supported by a 2010 Ministry of Justice research report that indicated adult defendants appearing from police stations by video link were more likely to be unrepresented and receive a custodial sentence.

Proposals for online pleas in the abandoned Prisons and Courts Bill allowed children to do so in the absence of legal advice or parental supervision or knowledge. Many children are unlikely to understand fully what they are doing when they indicate a plea<sup>3</sup>, and the use of online pleas reduce existing protections for children, exacerbating issues in understanding. Combined with the potential for the exercise of severe peer pressure on a child indicating a plea online, this reform seriously undermines children's access to justice. It will also likely lead to issues and delays later in the court process, where incorrect pleas have been indicated, likely negating any potential cost-savings.

The HMCTS reform programme and future estates strategy will involve the continuation of court closures. SCYJ disagrees with the assumption made by HMCTS that most court business will move online and therefore increases in travel time are not particularly significant. Children attending court are more likely to be reliant on public transport, and will therefore face longer journeys which will impact on their welfare. Longer journeys to court will mean children are less likely to be accompanied by an adult, as a child's carer will frequently have other responsibilities and children to care for. This will leave children, many of whom face significant difficulties, undertaking long and often complex journeys by themselves. Vulnerable children should not be travelling to and attending court without support from their

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<sup>2</sup> <http://scyj.org.uk/wp-content/uploads/2018/04/SCYJ-Child-defendants-and-video-links.pdf>

<sup>3</sup> <http://scyj.org.uk/wp-content/uploads/2018/05/SCYJ-response-Fit-for-the-Future.pdf>



parents or carers, and longer journeys to court will lead to more missed appointments due to journey disruption, causing delay and waste in the court system.

We are particularly concerned that HMCTS is pushing ahead with the reforms despite the fact there has been no introduction of the primary legislation necessary for full implementation. As well as this, HMCTS has not publicly consulted on important aspects of the reforms, such as video links and online pleas.

Overall, more data collection and evidence is needed on the impact of the proposed reforms before accurate cost savings can be calculated. SCYJ believes the current estimated savings of the HMCTS Reform Programme are overly optimistic and may be completely negated by the issues outlined above. Meanwhile, the reforms threaten to decrease rather than increase access to justice.

SCYJ recommends that the youth court reform programme is put on hold until sufficient assessment and public consultation has occurred on the impact of the proposals on child defendants' access to justice.

***The contents of this document do not necessarily reflect the views of all member organisations of the SCYJ***

