



**CHILD PARTICIPATION IN JUVENILE JUSTICE IN ENGLAND & WALES**  
**National Report for AIMJF's Comparative and Collaborative Research.**

*La participación de los niños en la justicia juvenil en Inglaterra y País de Gales.  
Informe nacional para la investigación comparativa y colaborativa de la AIMJF  
La participation des enfants à la justice juvénile en Angleterre et Pays de Galles  
Rapport national pour la recherche comparative et collaborative de l'AIMJF*

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**Abstract:** The paper is part of a collaborative research organized by the International Association of Youth and Family Judges and Magistrates (AIMJF/IAYFJM) on child participation in juvenile justice. The article explains the legal, institutional and procedural aspects of child participation in the Justice System in England & Wales.

**Resumen:** El documento es parte de una investigación colaborativa organizada por la Asociación Internacional de Juventud y Familia (AIMJF) sobre la participación de adolescentes en la justicia juvenil. El artículo explica los aspectos legales, institucionales y procesales de la participación infantil en el sistema de justicia en Inglaterra y País de Gales

**Résumé :** Le document fait partie d'une recherche collaborative organisée par l'Association Internationale des Magistrats de la Jeunesse et de la Famille (AIMJF) sur la participation des enfants à la justice juvénile. L'article explique des aspects légaux, institutionnels et procéduraux de la participation des enfants dans le système de justice en Angleterre et Pays de Galles

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## **Introduction**

The International Association of Youth and Family Judges and Magistrates (IAYFJM or AIMJF, in the French and Spanish acronym) represents worldwide efforts to establish links between judges from different countries, promoting transnational judicial dialogue, in order to provide better conditions for a qualified attention to children based in a human rights approach.

To do so, AIMJF organizes research on international problems facing the operation of the courts and various laws relating to youth and family and training programs.



The aims of this research are to identify similarities and discrepancies among countries and to develop a cartography of how child participation in juvenile justice is organized worldwide.

This national report is based on a questionnaire prepared by AIMJF.

## Questionnaire

1. General description of the procedure and the system
1. What is the name of the Court in your country with jurisdiction for wrongful acts committed by children? Does the name vary among different regions of your Country?

### **Youth Court**

Does this Court also have jurisdiction for other matters?

**No.**

2. What is the minimum age of criminal responsibility (MACR)?

**10 years old**

3. Until which age is a child subjected to the jurisdiction of the Youth Court?

**18 years old**

Does your legislation provide the possibility or possible obligation to treat a child under 18 as an adult?

**No**

4. Does this Court maintain the jurisdiction regardless of age at the time of the judgment if the offense was committed before the age of 18?

**Yes in terms of the sentencing options**

5. Can you describe the general steps of the procedure?

6. What are the opportunities for the child hearing in the whole proceeding?

**The child is expected to attend the whole proceeding. A trial in the absence of the child can occur ,but only in exceptional circumstances either when the child refuses to attend or fails to attend without good reason.**

7. Are there differences on how to proceed according to the age or other criteria?

**No. However if a child would benefit from specific assistance to maximise the ability to give good evidence, sg, a language interpreter, a child specialist to provide support, not advice, whilst at court etc .**

2. Judicial hearing

1. Is it mandatory for the child to participate in the hearing or is it optional?

**Yes. It is mandatory for a child to be given the opportunity to attend their hearing**

Is the child invited or summoned for the hearing?

**Summoned**

2. Is this call to appear, irrespective of its modality, made together with parent/representative or does the child receive a separate invitation/summon?

**Separate summons to appear issued to the child.**

Is it made in a child-friendly language?

**No**

3. Are there separate entrances and accesses for the child and other persons (professionals, victims and witnesses) to the room where the child is heard?

**Yes**

4. Is there a specific waiting room assigned to the child, separated from other people (especially victim and witnesses of the same case; any adults)?

**Defence and prosecution have separate interview rooms, but not necessarily waiting areas.**

Can you share a photo of this place, if any?

**No. The Youth Court is not a public court and camera's are never permitted.**

5. If children are brought by the police from places of detention, are they transported separately from adults?

**Yes**

Do they have to wait in cells, if so under what conditions (e.g. single or group cells, separation from adults etc.)?

**Single cells.**

6. Is there some space where the child and his/her support persons can meet confidentially before and after the hearing?



**Yes**

7. Where does the hearing occur? In the courtroom, chambers, in another room (if so please specify)? If various options apply, which situation will determine the difference in the approach?

**In the courtroom**

8. Are there differences in terms of accommodation between the hearing environment in comparison with a family (or child protection, or child victim/witness) hearing environment?

**Yes**

9. Are there differences regarding the hearing room in comparison with a regular criminal courtroom (for adults)?

**Yes**

10. Are hearings sound or video recorded? **No** Does such option exist?

**No**

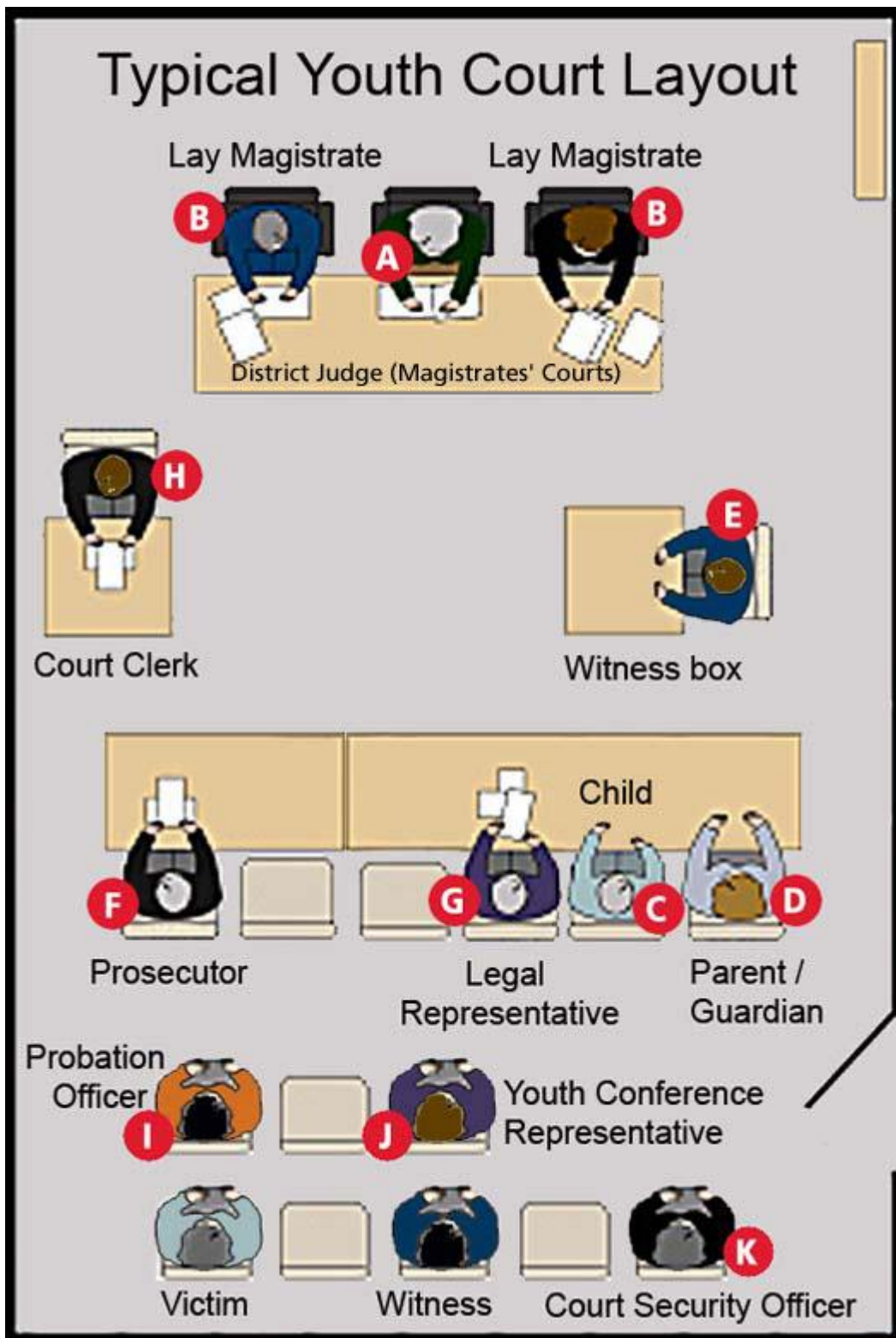
11. Who must, may, may not take part in the judicial hearing?

**Child and the Prosecution are required to attend. The child is always given the opportunity to be represented by a lawyer. The Youth Offending Service representative is usually in attendance but not always required to attend. For example a case brought by the public transport authority seeking a strict liability penalty charge claim against a child travelling without a valid travel permit/payment.** If there are differences according to the situation, please specify.

12. Can you please share a photo of the hearing room, specifying where each person sits? (or provide a drawing of photo not possible)

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<https://niopa.qub.ac.uk/bitstream/NIOPA/3006/1/the-Youth-Court-parents-guide.pdf>



13. Is there any informative material for children to explain who will attend and how the hearing will be held? Can you please share it/them



A guide for parents and guardians: <https://niopa.qub.ac.uk/bitstream/NIOPA/3006/1/the-Youth-Court-parents-guide.pdf>

14. Who normally hears the child in juvenile justice proceedings?

**Lay Youth Magistrates or a District Judge**

Is it the Judge or other professional?

**The Judge is a qualified lawyer**

15. Are there guidelines or a protocol on how to interact with the child?

**Yes**

Can you please share it/them?

**See link above**

Do those interacting with the child receive specific training on this? **Yes**

16. Can you please describe the ritual? **See link above** (Some guiding questions are below)

2.16.1. Does the judge wear a gown/wig during the hearing? **No** Would it be different in a family court?

**No**

And in a criminal court for adults?

**Depends on the criminal court. No in magistrates courts, Yes in Crown, High and Supreme Courts**

Can you please share a photo?

<https://www.judiciary.uk/about-the-judiciary/history-of-the-judiciary-in-england-and-wales/court-dress/>

2.16.2. Does the prosecutor and the defense attorney have to wear a gown or to use special clothes?

**Not in the Youth court**

2.16.3. Who else is allowed to attend the hearings?

**List caller, Court Legal Advisor and the police with the permission of the Magistrates/District Judge**

2.16.4. Are there cloth restrictions for the child, his/her parents or non-legal professionals to enter in the hearing room?

**At the discretion of the Magistrates/District Judge. Clothing should be in keeping with the dignity of the court,e.g. no shorts, tee shirt etc**

2.16.5. When the child is deprived of liberty, does he/she wear regular clothing or a uniform?

**Yes, see link above.**

What kind of security measures/measures of restraint may be adopted?

**Secure dock, handcuffs in exceptional circumstances removed where the child is in a secure dock.**

Is their use regulated by law (if so, please share provision)?

**Yes.**

Would it be visible for any attendee that the child is deprived of liberty?

2.16.6. Is the judge/decision maker in the hearing room when the child enters?

**Yes**

2.16.7. Does the child have to stand up?

**No**

2.16.8. Does someone have to allow the child (or others attendees) to sit down?

**Yes**

2.16.9. Does the child have to remain standing during the hearing?

**No**

2.16.10. Is there any kind of solemn speech or specific information/explanations provided to the child before he/she has the opportunity to speak?

**No** What is it said at this moment?

2.16.11. Does the child have to make any kind of commitment or swear an oath before speaking?

**No.**

2.16.12. Who poses the questions to the child: judge, psychologist, any other?

Does the child respond directly or via a third person, eg lawyer?

**The magistrate/district judge/ prosecutor/defence lawyer/ Legal advisor**

2.16.13. Is the child allowed to consult his/her defense attorney or his/her family during the hearing?

**Yes**

2.16.14. Who is allowed to address the child?

**Both the judge and the parties (prosecutor and defense attorney) and the Legal Advisor.**

Is there an order of who interacts with the child?

**Yes**

2.16.15. If other professionals (such as social workers or probation officers) are attending the hearing, what is their role? Are they allowed to speak to the child?

**They are officers of the court so they are required to assist the court. This may be by presenting a pre-sentence report to the court with recommended sentence. They may speak to the child (and any adult attending court with the child) normally outside of the court to gather information to present to the court.**

2.16.16. If some professional presents a report during the hearing, is the child allowed to interfere or correct the information or conclusions?

**The defence on behalf of the child is able to challenge any report presented to the court. The child may also challenge the contents of a report if invited by the magistrates/district Judge or if they are asked for their views by either the prosecution or their defence lawyer.**

17. Do you consider that the hearing is structured in a formal way or is it more open to a dialogical interaction with the child?

**More open to a dialogical interaction with the child.**

2.17.1. How would you characterize the tone of the dialogue and the general attitude of the hearing?

**More informal than the adult court. For example, the child is called by their first name, they are seated for most of the hearing, the language used in court is expected to be uncomplicated and readily understandable by a child. The layout of the youth court is all on one level with a desk in front of all the parties. The magistrates/district judge**

Must the child answer strictly to the questions or is he/she allowed to freely speak about what has happened?

**Both, depending on the question,**

The interaction is focused on the wrongful act or, additionally, is it open to contextualize the child's behavior, his/her family condition, educational process, social experiences,



and to express some aspects of his/her subjectivity? What promotes such dialogue, what hampers it, in your opinion?

**The welfare of the child is one of the guiding principles of the Youth Court. Consequently, proceedings are established to support the principle. Reduced time limits on trial date setting, bail conditions, youth only sentencing options, presentence reports written by child specialist etc all combine to support such dialogue. Hindrances may include the limited diversionary options available in the community, timely diagnosis of behavioural conditions, long timescales for the production of specialist reports (e.g,from child psychiatrist, determinations of modern (child) slavery status etc**

2.17.2. Is it an occasion for the Judge to strictly give the opportunity for each party to speak, according to the rules, in order to take a decision, or a moment that enable some kind of less formal interaction with the child with some kind of feedback on the pros and cons of his/her behavior as part of a negotiation of plea-bargaining, restorative justice or other alternative to the trial?

**Yes, both parties have a legal right to speak that is not subject to the discretion of the magistrates/district judge.**

2.17.3. Is the Judge or any other professional allowed to make any recommendation on how the child should behave?

**The judge/magistrates can do so as the persons responsible for conduct of individuals in the court and as the sentencer's.**

18. Does the child have, during the hearing, the same legal and procedural guarantees and safeguards as an adult? What are the differences?

**Yes, plus an additional principle that the court must have regard for the welfare of the child.**

19. What special protections are available to prevent trauma to the child (because of the nature of a hearing) which are not available in regular criminal court for adults?

**The child may be deemed to be in need of a child specialist to support the child during proceedings. The youth offending service can assist proceeding through their professional advice to the court. The magistrates/district judges have access to specialist child centred training that includes advice on having more breaks during proceedings for rest/refreshments to be had by the child etc.**



3. Generic questions concerning the improvement of Youth Courts

1. In your country, do the judges, prosecutors and defense attorneys benefit from specific initial and continue training on children's rights in juvenile justice and specifically on child hearing in this setting?

**Magistrates do benefit in this way. Not so for the other groups.**

2. Anything else you would like to add on this topic?

3. Any reform proposals in progress on any of the above issues?

**Yes,**

**see**

**link:**

[ADCS AYM LGA A Youth Justice System that Works for Children FINAL.pdf](#)

4. Any suggestions for improvement from your side?