

# include YOUTH

**Response to the Department of Justice consultation on proposals to extend  
the use of live links in court**

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## Introduction

Include Youth is an independent NGO that has been in existence since 1979. The organisation promotes the rights and best interests of and best practice with young people in need or at risk. We undertake activities aimed at influencing public policy and policy awareness in the areas of youth justice and education, employment and training of young people. Include Youth works directly with young people to support them to be engaged with policy decision making processes through our Young Voices project and to improve their employability through our Give and Take Scheme. We produce resources and provide training, information and support to practitioners and organisations.

## General Comments

Include Youth welcome the opportunity to comment on the proposal to extend the use of live links in court.

We responded to the correspondence<sup>1</sup> of 12<sup>th</sup> January 2012 on the proposal to provide Live Link facilities between Lakewood Regional Secure Care Centre and the Youth Court and also attended the meeting between VOYPIC, CLC, NIACRO, Include Youth and Department officials on the 22<sup>nd</sup> February 2012, to discuss these proposals.

We were pleased that the Department decided to reverse its decision in this case.

As we stated in our response of 24<sup>th</sup> February 2012<sup>2</sup>, the extension of the use of live links raises issues of informed consent to participate and it never should occur where there is a risk of prejudicing young person's access to justice and fair trial.

An efficient youth justice system is in the best interests of children and young people; however, administrative ease or financial expediency must never take precedence over the rights of these often vulnerable children and young people.

**In our response of February 2012, Include Youth recommended that there should be a review of the use of Live Links, monitoring progress and**

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<sup>1</sup> Letter from Tom Haire, Criminal Law Branch to Koulla Yiasouma, Include Youth, 12<sup>th</sup> January 2012.

<sup>2</sup> Include Youth response to the Department of Justice proposal for increasing use of live video link, 24<sup>th</sup> February 2012.

**outcomes in cases which are proceeded using video link, to help identify whether there is any adverse impact. This review should involve full consultation with young people.**

**We further recommended that this review should be carried out in advance of any proposals being drawn up to extend the use of Live Link.**

### **Specific Comments**

While we acknowledge the reference within the consultation document that the legislation will provide for a requirement of consent from the young person<sup>3</sup> and will also require that the court must be satisfied that the person is able to see, hear and participate in the proceedings in addition to being seen and heard by the court<sup>4</sup>, we remain concerned about the Department's assessment that an equality impact assessment is not required. The fact that the proposal impacts on a relatively small number of people and that it has been part of proceedings for a length of time, does not, we believe, provide adequate grounds on which to make a decision on the need to conduct an equality impact assessment.

“The proposals will also impact in quite discrete areas of court business and on a relatively small number of people within the justice system. More generally the use of live links is already an established part of court procedure for criminal proceedings and has been for some considerable time.”<sup>5</sup>

Furthermore, we would call into question the Department's assessment that:

“Live links have proved acceptable to all concerned.”<sup>6</sup>

We are concerned about the level of evidence on which it was decided to screen out the proposal for a full EQIA. The DOJ cited just one piece of evidence which was used to inform the decision to screen out the policy for an EQIA, the 2008 Evaluation of the Woodlands Juvenile Justice Centre Youth Court Video Link.

The 2008 Evaluation paper notes:

“Almost three quarters of the young people interviewed in the JJC were in favour of video link, and the reasons referred mainly to its convenience and speed, compared

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<sup>3</sup> DoJ Consultation on proposals to extend use of live links in court, 21 June 2012, paragraph 5.4

<sup>4</sup> DOJ Section 75 Equality Screening Form, Extending the Use of live links, paragraph 28, page 17

<sup>5</sup> Ibid, paragraph 27, page 17

<sup>6</sup> Ibid

to the long journeys to the courts and the long, lonely waits in uncomfortable cells at the courts.”<sup>7</sup>

Rather than seeing this as a majority approval for the use of video link it could be read as more an indictment of the problems within the court system and the conditions in which young people are sometimes held.

The NIO report summarises that there was no evidence to suggest that using video link in any way disadvantaged a young person. They did however, make the qualification that the young defendant must be able to see and hear the court proceedings clearly at all times. While observations of proceedings highlighted that most of the hearings via video link occurred with no difficulty and were well and efficiently organised, the report did state that “there were on occasions technical problems when sound and picture quality were not of the highest standard” and that although” the majority of the young defendants were well behaved ... they did appear to be a bit confused at times when they were unable to hear their solicitor or other court personnel.”<sup>8</sup>

Our consultation with young people in February 2012 suggests that, four years on from this evaluation, there remain significant problems with technical difficulties.

To inform our response to the previous proposal to extend the use of live link in February 2012, we conducted consultations with young people in both the Juvenile Justice Centre and Hydebank Young Offenders Centre to ascertain their views and experiences of Live Links. The consultations were carried out in February 2012.

## **Young People’s Views on Live Link**

### ***Technical Problems***

*“You can’t hear properly in video link.”*

*“It all crackles and you can’t hear what’s going on.”*

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<sup>7</sup> NIO, Evaluation of the Woodlands Juvenile Justice Centre Youth Court Video Link, Research and Statistical Series, Report No. 19, Independent Research Solutions, June 2008, page 19

<sup>8</sup> Ibid, page 22.

*“In the Belfast court, you can’t hear the judge talking, if other people in the court are talking.”*

*“Sometimes it can’t even connect.”*

*“I didn’t hear what was being said because the video link wasn’t working properly.”*

*“Sometimes, you can’t even get through, the link doesn’t work, and you have to wait for the court to ring you and tell you what’s happened just, what’s been said in court.”*

*“I went to video link once and I just sat waiting, then got a call to say I hadn’t got bail, but because it didn’t connect I didn’t hear what was said because the video link wasn’t working right.”*

*“You can’t hear what people are saying.”*

**Removed from proceedings – less chance to have a say.**

*“In video link it’s like you’re not there, not in court.”*

*“It doesn’t feel like you are in court when you use video link.”*

*“It’s just harder to get say with video link.”*

*“It’s hard to get your say in court anyway, but video link is even worse.”*

*“You have to shout out to be heard.”*

*“In video link you don’t get to say nothing – because the judge doesn’t look at you and talk to you, they talk to your solicitor just.”*

*“Sometimes they (solicitors) ring you just in video link, to tell you what’s happening. Usually they tell you what’s going on, but you’d rather be there so they can tell you direct and you can ask what’s going on.”*

*“Sometimes on video link the judge talks to the others in the court, about you, but not to you.”*

*“When I’m in court I make sure I get my say, but in video link you don’t know how, because you don’t know if they are looking at you or not.”*

*“They talk as if you are not there on video link, as if you’re not listening.”*

### **The positives of going to court**

*“If you can get out to court people can give you stuff .”*

*“You can get out and see people if you go to court – your family.”*

*“You can get out and have a smoke.”*

*“You get out of custody for a while, that good.”*

### **Questions about process**

*“But who decides – is it the judge or the solicitor? It should be you who gets to decide whether you want to use video link or not.”*

*“Once there was two people here in the video link and they thought it had been turned off, but the court could hear them talking – staff and a young person – they nearly got done for contempt of court.”*

### **Reasons why you might want to use video link instead of being in court.**

*“The only reason I don’t like going to court is because you are waiting in the cells for ages – all day sometimes – especially in Belfast court.”*

*“Because you don’t have to wait in the cells – it can take ages before they bring you down to the court and your heads melted.”*

*“And you can get stuck in a cell with a nutter – it can be adults or anyone. “*

*“I’ve been taken out of custody to court a few times, waited there for ages, then told there’s no need for me to be there, they can f\*\*\* it all up sometimes, the courts, make mistakes and drag you up there for no reason.”*

*“Video link is handy, you don’t have to leave custody/ secure.”*

*“I hate court. See everybody talking about you and especially when the judge tries to make an eejit out of you.”*

*“There’s no reason for not wanting to use video link I don’t think.”*

### ***The use of video link depends on circumstances***

*“It depends what you are in court for, like if I was up for bail, I’d want to get my day – because the cops always say lies about me, so I want to be able to have my say. But if it’s just something stupid you’re in court for, like you know what’s going to happen, when you just stand and they say something to you,, then you sit down and that’s it, I’d rather use Video Link.”*

*“Sometimes video link is better, sometimes it’s not – it just depends what you’re up for, why you have to go to court.”*

### **Conclusions**

Include Youth appreciates that for administrative and routine hearings live links can be both cost effective and expedient. While we acknowledge that the use of live links for breach proceedings is predominantly a court overview of an administrative decision only, we remain concerned that young people appear to still experience technical problems in its use. These issues must be addressed as a matter of urgency. As the young people suggest, the circumstance in which live link is used is vital to deciding whether it is appropriate or not, and in this case it would appear it would appear to be the more sensible and cost effective option, but this does not negate the absolute need for the young person to be able to hear and see proceedings effectively.

The quotes from the young people would suggest that a further review of the use of Live Links is required before proposals are brought forward to extend its use. There are clearly a number of technical problems which continue to impact on the ability of the young people to meaningfully participate in proceedings.