

include YOUTH

Response to the Department of Justice proposal for increasing use of live video link

24th February 2012

For further information contact Paula Rodgers
Policy Co-ordinator, Include Youth, Alpha House, 3 Rosemary Street, BELFAST, BT1 1QA

028 9031 1007
www.includeyouth.org

paula@includeyouth.org
twitter.com/includeyouth

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 create legislation to allow for live video link to be available in certain circumstances to deal with certain hearings.

From the outset we would like to express our concern over the lack of clarity on the circumstances in which the proposed extension of Live Link will be used.

The initial correspondence of 12th January 2012 states the proposal is to provide Live Link facilities between Lakewood Regional Secure Care Centre and the Youth Court. However, in subsequent discussions it was established that the proposal would be confined to civil/family court proceedings rather than criminal proceedings.

We appreciated the opportunity to seek clarification about the proposals at the recent meeting between VOYPIC, CLC, NIACRO, Include Youth and Department officials on the 22nd February 2012.

At that meeting we also learnt of a second proposal, to use Live Links for breach proceedings for young people, as well as for hearings regarding Secure Accommodation Orders.

We note that the Departments have listed a number of reasons why such a move should be beneficial¹.

- To ensure the safety of the child and to prevent absconding.
- To avoid unnecessary expense, travel and disruption for both the child and the court.
- For health service workers in managing and supervising court visits.
- For courts to provide a more efficient process.

Include Youth appreciates that for administrative and routine hearing such as adjournments live links can be both cost effective and expedient. However we believe that for substantive hearings a defendant's right to a fair trial and to participate in hearings is progressed by their presence in a court room. (Extract from IY Response to Criminal Justice Order 2007) KOULLA/EDEL – IS THIS STILL INCLUDE YOUTH'S POSITION ON LIVE LINKS – CLC HAVE SAID THAT THEY DO NOT SUPPORT USE IN ANY CIRCUMSTANCES)

This raises issues of informed consent to participate by way of live link. 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

Include Youth is concerned that the current proposal will potentially remove the right of young people to meaningfully participate.

Include Youth recommend that there should be a review of the use of Live Links, monitoring progress and 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.

This review should be carried out in advance of any proposals being drawn up to extend the use of Live Link.

As we reiterated at the meeting on the 22nd February, we are concerned about the level of evidence on which it was decided to screen out the proposal for a full EQIA. There would

¹ Letter from Tom Haire, Criminal Law Branch to Koulla Yiasouma, Include Youth, 12th January 2012

appear to be some disagreement over whether the proposal could adversely impact on young people. The DOJ cited two pieces of evidence which were 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 and the National Children's Bureau (NCB) report on A Review of the Use of Secure Accommodation in Northern Ireland, published in 2008.

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 to the long journeys to the courts and the long, lonely waits in uncomfortable cells at the courts."²

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 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."³

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

The NCB report quoted is very limited in terms of its reference to the use of video links. It is only referred to once in the report:

"Frequent attendances at court can also be very resource-intensive for the agencies, not only in terms of paperwork, but also because it involves young people and staff in hours of travelling to attend court. The installation of a video

² Northern Ireland Office, Evaluation of the Woodlands Juvenile Justice Centre Youth Court Video Link, NIO Research and Statistical Series: Report No.19, Independent Research Solutions, Helen Dawson, Seamus Dunn and Valerie Morgan, June 2008, page 19.

³ Ibid, page 22.

link, as in the juvenile justice sector, would seem to be a useful way forward in terms of diminishing the necessity of travel and removing the increased risk of the young person absconding.”⁴

The NCB report does not appear to provide any evidence on the use of video link from the perspective of the young person. On that basis it would not seem to be an appropriate piece of evidence on which to base a decision to screen out the policy proposal.

We do not regard these two reports as sufficient evidence on which the Department can base a decision to screen out the proposals.

To inform our response to the proposal, 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

Lakewood is not prison!

“Lakewood’s not even criminal – you don’t get sent there for breaking the law, it’s just a children’s home, so why would they have a video link with the courts there?”

“I’d rather go to court – because Lakewood’s not a prison, you’re still free in that place, it’s not a jail, so it shouldn’t have video link, it’s not part of the criminal justice system.”

Technical Problems

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

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

“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.”

⁴ National Children’s Bureau, November 2008, A Review of the Use of Secure Accommodation in Northern Ireland, Ruth Sinclair and Teresa Geraghty, page 71.

“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 juts 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.”

The young people also had suggestions on what could be done to improve the experience of using live links from Lakewood.

“Have 4 different screens so you can see everybody – because there’s only one screen and you can’t see everyone at one time.”

“Or have a big screen so you can see everybody.”

“Make it so you can talk privately with your solicitor – like a consultation room. They have one in court, but on video link people can hear you.”

“Make the room more comfortable.”

Conclusions

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. It would also appear that the reasons given by some of the young people to choose Live Links over attending court, may have more to do with how they experience the court process, rather than a resounding affirmation of the Live Link process.