

Written evidence submitted by the Youth Justice Board (CCB0011)

1. Introduction: The YJB, our vision and role

1.1 The YJB was established in statute through the Crime and Disorder Act 1998. Sec 41(5) of this act sets out our statutory functions. These are primarily as follows-

- Monitor the operation of the youth justice system and the provision of services and whether they meet ascribed National Standards.
- Advise the Secretary of State, including the content of any National Standards they may see fit to set.
- Obtain and publish information from ‘relevant authorities.’
- Identify and make known good practice.
- Commission research.
- Make grants to local authorities and other persons for the provision of youth justice services.
- Provide assistance to local authorities and others on information technology systems.

1.2 The YJB is the only official body to have oversight of the whole youth justice system and is uniquely placed to guide and advise on the provision of youth justice services.

1.3 The YJB is evidence driven. We strive to understand what works to prevent offending by children and to use this knowledge to influence development of both policy and practice. We have summarised the evidence base within the Child First Framework¹. **In line with this framework, our vision for success is for a youth justice system that treats children as children, recognising their stage of development and vulnerabilities and specific legal status. This vision lies at the heart of who we are and what we stand for as an organisation.**

1.4 The YJB welcomes this inquiry into Crown Court backlogs. In addition to drawing attention to the specific impact upon children of issues we understand to exist, we also want to draw attention to the need for broader court reform, which could serve to better meet the needs of children and to be more effective in preventing re-offending along with reducing court backlogs in the future for both children and adults.

1.5 Broadly speaking, the YJB’s view is that the court system (particularly Crown Court) inadequately meets the needs of children (both victims and defendants). Court frequently fails to provide a meaningful experience for children or offer adequate leverage for access to mainstream services critical to preventing future offending. Consequently, we identified courts in the context of both a child’s experience and the outcome as an area for improvement within the youth justice system in our Strategic Plan 2024-27.² As such, we considered it important that we responded to this call for evidence to draw specific attention to the impact of Crown court backlogs on child defendants.

¹ [A guide to Child First](#)

² [Youth Justice Board Strategic Plan 2024-27](#)

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- 1.6 The Court backlog was building ahead of Covid 19 which has only exacerbated this which indicates to us that a system issue exists which needs root and branch reform to alleviate.
- 1.7 **One issue worthy of note up front are the gaps in existing data which need addressing if we are to fully understand the court processes and their effectiveness including issues underpinning the current backlog for children and their causes.**
- 1.8 Meanwhile, the YJB welcomes the Leveson Review and the opportunities that this will present for children as well as adults, defendants, and victims alike.

2. Data on Court backlogs

- 2.1 In the year ending March 2023 there were 11,900 sentencing occasions involving children (4% of these cases at Crown Court)³. Over the past ten years the proportion of sentencing occasions of children at the Crown Court has remained stable with figures tending to vary between 4% and 6%⁴.
- 2.2 While data on the exact number of children awaiting a conclusion on their court hearing is not available, data is available on the average length of time in days from the date of the offence (or alleged offence) up to the date of completion. Completion refers to the stage at which a verdict is delivered, or the case is concluded.
- 2.3 The data shows that the average length of time for cases to be completed increased steadily between the years ending March 2013 to 2020, followed by a much sharper increase in the year ending March 2021 during the COVID-19 pandemic, where court closures resulted in backlogs of cases. There have been marginal reductions in the two years following, though the average time from offence to completion remains well above pre-pandemic levels.⁵ Overall, case completion is taking an average of more than one hundred days longer than it did a decade ago⁶.
- 2.4 There is evidence which shows that Black children are processed through the system by the police at a faster rate than White children. However, at court cases for Black children take longer to process from the stage of first listing to completion compared to White children⁷. This is an area requiring exploration to ensure fair outcomes for all children.

2.5 Graph taken from Youth Justice Statistics 2022-2023⁸

³ [Youth justice statistics: 2021 to 2022 - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/statistics/youth-justice-statistics-2021-to-2022)

⁴ [Youth justice statistics: 2022 to 2023 - GOV.UK](https://www.gov.uk/government/statistics/youth-justice-statistics-2022-to-2023)

⁵ [Youth justice statistics: 2022 to 2023 - GOV.UK](https://www.gov.uk/government/statistics/youth-justice-statistics-2022-to-2023)

⁶ [YJB Youth Justice statistics 2022-23 Supplementary tables Ch 5 - Sentencing of children](https://www.gov.uk/government/statistics/youth-justice-statistics-2022-23-supplementary-tables-ch-5-sentencing-of-children)

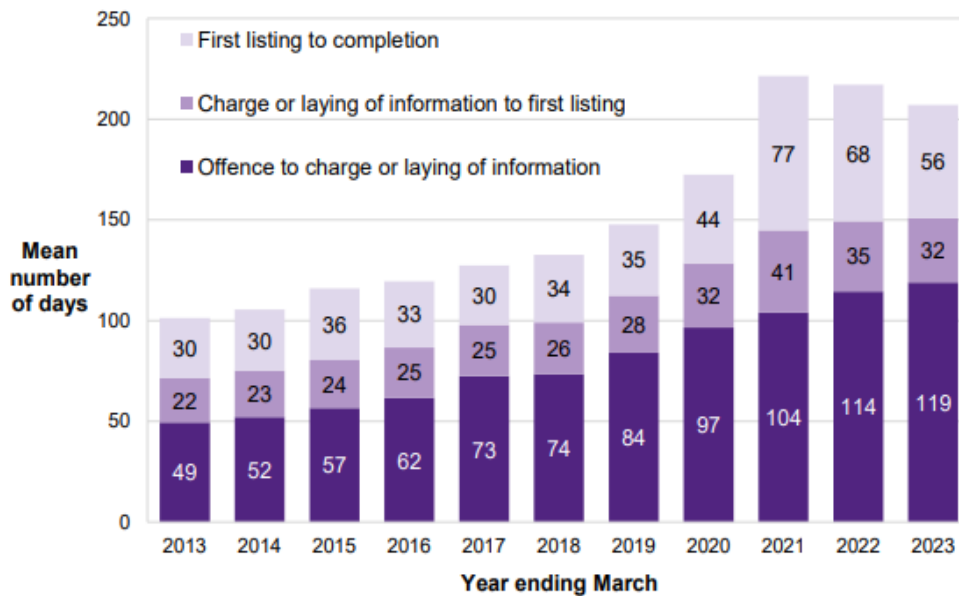
⁷ [Youth Justice statistics- Annex C tab C.6- Youth time from offence to Completion](https://www.gov.uk/government/statistics/youth-justice-statistics-annex-c-tab-c.6-youth-time-from-offence-to-completion)

⁸ [Youth justice statistics: 2022 to 2023 - GOV.UK](https://www.gov.uk/government/statistics/youth-justice-statistics-2022-to-2023)

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5.2 Average time from offence to completion at court

Figure 5.2: Average time in days from offence to completion at court, England and Wales, years ending March 2013 to 2023



*As noted previously it is evident that the length of time taken for cases to be completed has been increasing since before the pandemic. Increases were exacerbated by the pandemic and despite recent reductions, the delays continue to be significant. It is worth noting that we do not have a break down between the length of time taken to complete cases across youth court. Further data would enable a better understanding of the issue whilst allowing for useful comparisons to be made between youth court and Crown Court.

2.6 There are likely to be multiple contributing factors to the court backlog. Court closures; challenges in advocacy; the increasing complexity of children's needs, including exploitation of children by adults will all play a role. Paragraph 4 offers recommendations on potential solutions to managing the backlog.

3. Impact of the backlog on children

3.1 We recognise the complexities around court backlogs. They are impacted by a range of factors that are caused by distinct parts of the wider system including:

- police investigations.
- CPS decision making.
- and other parts of the system.

3.2 Procedural fairness and efficacy

Evidence tells us that the justice process is more effective if conducted in a timely fashion and when it brings a greater sense of procedural fairness for both victims and the accused alike. This is all the truer for children, where any delays in the progression and management of court

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cases are likely to have a disproportionate impact at a critical time of a child's life. Procedural fairness requires justice to take place in a timely way and alongside this, processes should be explained clearly and understood.

It is important to highlight that there are risks to simply speeding up processes to alleviate the backlog. A report by Centre for Justice Innovation highlights the implications of court backlogs explaining that it leads to a focus on conducting court hearings at pace which may then be at the expense of fairness. It also results in court staff having to communicate substantial amounts of complex legal information without the opportunity to check understanding. Children often struggle to understand court processes based upon their age, developmental stage and speech language and communication needs (SLCN). Research⁹ shows that children with SLCN are disproportionately represented in the YJS, 71% of children sentenced between April 2019 and March 2020 had SLCN. In sum, processing cases at pace without ensuring efficacy can prevent courts from being able to ensure procedural fairness and undermine the court's ability to promote and maintain procedural fairness¹⁰.

3.3 *Transition to adulthood*

Court backlogs and subsequent delays can lead to the issue of children reaching the age of eighteen between the time that an offence has been committed and the time of conviction leading to the possibility of individuals being sentenced as adults. The difficulty with this is that sentencing is not reflective of the individual's age and circumstances at the time of the offence or alleged offence.

3.4 *Impact upon sentencing*

Delays in case progression can be a psychological and a practical burden for children as they are left in a state of uncertainty, unable to plan for their lives or move forward. This will apply to victims and defendants alike.

A specific illustration of this is the impact of a lengthy court case on a child's education. The United Nations Convention on the Rights of the Child sets out civil, political, economic, social, and cultural rights that apply to all children. Article 28 of the convention states that all children have the right to an education¹¹. Delays can result in children becoming disengaged from education, but also employment, and training as they are unable to commit to opportunities available to them.

Through our engagement with Youth Justice Services, we are aware of situations where children have been denied a place at college. Some of these were due to having open cases at court. In one instance a college offering the 12-week Prince's Trust (now Kings Trust) programme decided not to accept any children with an open case with youth justice regardless of the alleged offence or conviction. Applications from children in this cohort were rejected and no interviews offered. We know that education, training, and employment are key to children building a pro-social identity, cementing their place in the community and steering children away from criminal behaviour. This example illustrates how delays leading to open cases can prevent children from taking up available opportunities which will improve future outcomes and presents us with real concern.

⁹ YJB-MoJ (2021) Assessing the Needs of sentenced children in the youth justice system 2019/20.

¹⁰ CJI Procedural fairness at court: A toolkit for practitioners

¹¹ [United Nations Convention on the rights of the child](#)

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3.5 *Remand into youth detention accommodation*

The numbers of children remanded into youth detention accommodation and the length of remands continues to be an area of concern. Children held on remand make up 40% of the total number of children in custody¹².

In turn children whose cases appearing at Crown Court are more likely to be remanded due to the serious nature of the charges against them and any backlog will impact upon the length of time that the child spends upon remand.

Children remanded into youth detention accommodation, particularly those in Young Offenders Institutions experience challenging conditions and significant disruption to any positive influences including a lack of access to quality education.

Remand to youth detention accommodation undoubtedly has a detrimental impact upon the emotional, mental, and even physical wellbeing of children. This experience, rather than serve as a deterrent against future offending can instead support the creation of a sense of identity which is “pro-criminal.” This negative influence increases the risk of offending in the future.

Furthermore, a joint inspection by HMI Prisons and Probation identified that remand was not always necessary, and its consequences were considerable¹³. Hard evidence supports the view that children are unnecessarily remanded; for example, in the year ending March 2023 almost two thirds of children remanded to youth detention accommodation did not subsequently receive a custodial sentence¹⁴.

In addition to the potential harm caused to children and the possible longer-term impact upon public protection remand into youth detention accommodation comes at a significant cost to the public purse. This cost is even more troubling given the potential longer-term damage caused at the same time.

4. Managing the backlog

4.1 *Short term reform*

Immediate relief to the court backlog is possible by giving additional powers to the youth court and referring cases back from Crown court. Youth courts, whilst not perfect are more suited to the needs of child defendants and offer greater efficacy.

It is our view that a specialist youth court is the most appropriate environment for children. In cases involving adult co-defendants, separation should take place between child and adult wherever possible. This will ensure a specific focus on the needs of the child and to allow for swifter case progression. This approach has the advantage of helping to manage cases more quickly which can help to reduce the volume of cases and thus the backlog.

However, in circumstances where a case must be heard in the Crown Court there should be specialist trained youth judges to preside over cases. This could help to ensure the specific needs of the child are met along with procedural fairness. Embedded within a child focussed needs-based approach, we would also expect youth judges to adopt swift case progressions times.

¹² [HM Chief Inspector of Prison for England & Wales Annual Report 2023-2024](#)

¹³ [HM Chief Inspector of Prison for England & Wales Annual Report 2023-2024](#)

¹⁴ [Youth justice statistics: 2022 to 2023 - GOV.UK](#)

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Increased use of the Common Platform could also help alleviate Court backlogs. We understand through our engagement with HMCTS that the introduction of the Common Platform has resulted in improvements to accessing case material leading to quicker case progression. The Common platform enables easier access to case material which we believe has been particularly helpful for criminal defence lawyers who historically had to wait to speak to the prosecutor in the court room before taking instructions. This system allows courts to process cases more quickly meaning that if used effectively it could ideally help to reduce waiting times for children.

4.2 Long term reform

Long term systemic reform could help engineer backlogs out, whilst enhancing procedural fairness for victims and defendants and increasing efficacy.

Adopting the evidence-based Child First framework and developing a courts process tailored for children is fundamental to Court effectiveness including reducing delays which contribute to backlogs. It is key that court processes for children meet the needs of children rather than an adaptation of the adult system. A process that seeks to achieve this would have the concept of swift administration of justice as a central principle. By processing cases in a swift and effective manner it means that children can be effectively supported towards an offence free future.

A further feature of a Child First framework would be to make greater use of diversionary approaches which are effective in reducing re-offending whilst also preventing children from having contact with formal court proceedings.

4.3 Managing and processing Crown Court cases involving children in a manner that recognises and meets the needs of children is constructive. It can also help to lead to more positive outcomes for children as well as wider society through creating safer communities.

5. A summary of our proposed recommendations:

- a) Court processes should be evidence driven and centred around ensuring procedural fairness and efficacy to ensure the best outcomes for the victim and defendant. Cases involving children should be heard through a specialist Youth Court wherever possible. For cases involving adult co-defendants, children should be separated and wherever possible they should still be prosecuted through the youth court. This ensures a focus on the needs of the child whilst also relieving the Crown court of further pressure.
- b) There is a need for better data to understand the reasons for the court backlog as well as any useful links between completion rates in youth court in comparison to the Crown Court.
- c) Expand the use of the Common platform to enable broader access to information from initial investigation through to court. This could enable better communication between the police, CPS and judiciary enabling quicker case preparation and progression up to the stage of cases being listed and heard in court.
- d) Evidence shows that diversion is effective in reducing re-offending¹⁵. Consequently, where appropriate there should be greater use of Out of Court Disposals as a form of diversion, this could also help to reduce the volume of cases going through the courts.

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- e) If cases must be heard in the Crown Court, they should be presided over by a trained youth judge.
- f) Amongst Crown Court cases, those involving children should be prioritised over other cases. It is key that the courts consider the welfare of the child in line with the welfare principle of the Children Act 1989¹⁶.

In sum, we have grave concern at the increased length of time from charge to completion of criminal cases involving children.

It is evident that it is difficult to gain a deeper understanding of the challenges due to the complexities that sit around the court process as well as a lack of available data. We hope that this response will help to provide insight into the impact that Crown Court backlogs have had on child defendants as well as providing useful suggestions around how cases involving children could be managed using a Child First approach which could result in swifter processing whilst helping to reduce the backlog.

¹⁵ [Centre for Justice Innovation- Strengthening youth diversion](#)

¹⁶ <https://www.legislation.gov.uk/ukpga/1989/41/section/1>