

PRACTICE DIRECTION

RC 24/01

Children in Royal Court Criminal Proceedings

1. In this Practice Direction a “child defendant” is a person who committed or is alleged to have committed an offence when they were under the age of 18 and appear for trial or sentence when under the age of 21, and a “child” or “children” is a person or are persons under 18 years of age.
2. Children should not be deprived of their liberty except as a last resort and because there is no other appropriate way of dealing with them. Pre-trial remands in custody should also be avoided wherever possible. Pre-sentence reports prepared by the Probation Service should contain a full assessment of the risk and possible alternative sentencing options to youth custody. This approach is consistent with Article 37(b) of the United Nations Convention on the Rights of the Child (“the Convention”) and Article 4 of the Criminal Justice (Young Offenders) (Jersey) Law 2014.
3. When imposing a non-custodial sentence on a child, consideration should where possible be given to making a reparative condition as part of any probation order and rarely is it appropriate to impose any financial penalty on the child.
4. The presence of a child as a witness or defendant should be raised by the prosecution (or defence in the case of a defence witness) at the plea and direction hearing. The Court will then consider what, if any, special measures are appropriate under Article 101 of the Criminal Procedure (Jersey) Law 2018 in order to put the child at their ease and ensure that they fully understand the Court process so as to improve the quality of their evidence. The needs of any child witness or defendant in this regard should be addressed and resolved at the plea and directions hearing and, in any event, well before trial so that the child understands what measures have been ordered by the Court. Consideration of a Ground Rules hearing should be had, whether or not there is

an intermediary assessment, or an order is made for the appointment of an intermediary. Such a hearing will enable the Court to give guidance as to the form of questions which would and would not be appropriate, the need for any breaks and to consider any other particular special measures in the case of a child defendant. Parties should agree a witness timetable, accommodating any necessary breaks, at or before any Ground Rules hearing.

5. Unless there is good reason to the contrary, all children appearing in the Royal Court, whether as a witness or a defendant, should have the opportunity to visit the Royal Court before the first hearing when they are likely to appear with an appropriate supporter and a member of the Royal Court staff, to ensure that they are at their ease when their case is listed. At such a visit, the child will be informed, in appropriate language, of the layout of facilities, roles and identities of the parties involved in the case.
6. If practicable, a case involving a child as a witness, or a defendant will be listed in Court 2 which is a less formal environment than the Royal Court. All advocates conducting cases where children are appearing as witnesses or defendants should be familiar with and preferably trained in accordance with the Advocates Gateway ([Home | Advocate's Gateway \(theadvocatesgateway.org\)](https://theadvocatesgateway.org)) which safeguards the interests of children as witnesses and defendants in criminal proceedings and should also be familiar with the relevant Convention rights of the child.
7. Whether or not the child has attended a Court familiarisation visit as provided for in paragraph 5 above, prior to each hearing the advocate representing the child or, in the case of a witness, the advocate for the prosecution or defence respectively, must explain directly to the child his or her role and what the process of the hearing will be. The judge should ensure that this has been carried out in every case.
8. All judicial decisions in relation to a case including determinations in respect of bail or sentence should be explained to a child defendant in a language

suitable to his or her age, maturity, level of understanding and communication difficulties if any.

9. In any case where a child defendant appears in Royal Court proceedings, including their trial and sentence, no person shall be permitted to be present in Court except:
 - (a) members and officers of the Court;
 - (b) parties to the case, the advocates and other persons directly connected to the case including the child's parent(s) (or corporate parent);
 - (c) representatives of the accredited media; and
 - (d) any other persons specifically authorised by the Court to be present.
10. Subject to any security and other practical considerations, a child defendant should not be required to sit in the dock (unless in the context of the Royal Court it is practicable and appropriate to do so bearing in mind the proximity between the dock and defence counsel) but should be seated immediately behind his or her counsel. In circumstances where the child defendant is seated outside the dock, he or she should be permitted to sit with a parent, guardian or other supporting adult.
11. If a child defendant wishes to address the Court directly, and not through Counsel, on a particular matter then they may do so.
12. Steps should be taken to ensure that all child witnesses and child defendants are aware of this Practice Direction.

This Practice Direction is effective immediately.