

The Youth Justice System's Response to the Covid-19 Pandemic

Introduction to the Youth Courts

Research Paper 5

Dr Samuel Larner
Andrea Nisbet
Professor Hannah Smithson

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About this Research

During and after the Covid-19 pandemic, there will be societal implications for all children. However, for those in the youth justice system the impacts are likely to be particularly detrimental. There is an urgent need to develop a clear understanding of the impact of the pandemic on these children and those who work with them.

This research is funded by UK Research and Innovation. It is led by Professor Hannah Smithson at the Manchester Metropolitan University (MMU) in partnership with the Alliance for Youth Justice (AYJ). The project focuses on each stage of the youth justice system. It will document the impact of the pandemic on adaptations to working practices, barriers and enablers to effective practice, children's experiences and views of these adaptations, and the lessons learned for policy and practice. This research paper presents the initial findings from 14 interviews with legal professionals (including seven Crown prosecutors, three defence advocates and four Legal Advisors) from the Youth Courts across the Greater Manchester (GM) region. The interviews took place between June 2021 and November 2021. The paper focuses on adaptations to practice and service delivery. It is the fifth in a series of papers that will be produced over the life of the project.

About the Manchester Centre for Youth Studies (MCYS)

The MCYS is an award-winning interdisciplinary research centre at MMU, specialising in participatory, youth-informed research that positively influences the lives of young people. MCYS believes young people should have the opportunity to participate meaningfully in decisions that affect them and employs participatory approaches to engage with young people across a range of issues. As an interdisciplinary research centre, the MCYS team brings together academics and practitioners from a range of disciplines. In addition to collaborating with young people and their communities, MCYS works with agencies and organisations across the public, private and voluntary sectors, both in the UK and internationally.

About the Alliance for Youth Justice (AYJ)

The AYJ brings together over 70 organisations, advocating for and with children to drive positive change in youth justice in England and Wales. Members range from large national charities and advocacy organisations to numerous smaller grassroots and community organisations. The AYJ advocates for distinct systems, services and support that treat children as children first and foremost - underpinned by social justice, children's rights and a focus on positive long-term outcomes. The AYJ aims to promote widespread understanding about the underlying causes of children coming to the attention of the criminal justice system, and champions approaches that enable them to reach their full potential.

Acknowledgements

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Glossary of Acronyms

- Alliance for Youth Justice (AYJ)
- Child and Adolescent Mental Health Services (CAMHS)
- Crown Prosecution Service (CPS)
- Cloud Video Platform (CVP)
- Grievous Bodily Harm (GBH)
- Greater Manchester (GM)
- Her Majesty's Courts and Tribunals Service (HMCTS)
- Manchester Centre for Youth Studies (MCYS)
- Manchester Metropolitan University (MMU)
- Not Guilty Anticipated Plea (NGAP)
- Pre-Sentence Reportt (PSR)

Introduction to the Youth Courts

Harris and Goodfellow (2021)¹ explain the operation of the Youth Court. It is reproduced here to contextualise this report:

When children aged 10-17 are charged with an offence they are brought to court for trial and sentencing. The majority of cases involving a child defendant will be heard in a Youth Court, a form of Magistrates' Court adapted to be more suitable for children². Cases may also be heard in Crown Courts if they are deemed to meet criteria around seriousness, or in adult Magistrates' Courts under some circumstances, such as the child has an adult co-defendant³. Youth Courts follow sentencing guidelines written specifically for those under 18⁴. Youth Courts are generally viewed to be less formal than adult courts. For instance, children are called by their first name. Members of the public are typically not allowed to observe Youth Court hearings. Youth Courts can dispense a range of sentences.

Her Majesty's Courts and Tribunal Service (HMCTS) manages the administration of criminal, civil, and family courts, while the Crown Prosecution Service (CPS) decides which cases should be brought before court for prosecution, prepares cases and presents them at court. Fully functioning courts enabling swift justice are a critical part of a criminal justice system - as the legal maxim goes, 'justice delayed is justice denied.' However, prior to Covid-19, delays in the youth justice system were already a concern, with annual youth justice statistics and research by the Centre for Justice Innovation and the Institute for Crime & Justice Policy Research identifying long delays in children's cases coming to court^{5,6}.

In March 2020, as the country entered lockdown and social distancing restrictions came into force, criminal courts could not continue hearing cases as usual. Many court buildings closed, business moved online, and cases were put on hold. Decision-makers and practitioners have worked to minimise the impact of Covid-19 on courts since March 2020, but case delays, already in existence and exacerbated by Covid-19, have had significant ramifications for children. This is particularly the case for child defendants who turn 18 before their first hearing and consequently have their cases heard in the adult courts rather than Youth Courts.

Within the Greater Manchester (GM) region, there are three Youth Courts sitting at Manchester, Tameside, and Stockport Magistrates' Court.

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- 1 [The Youth Justice System's Response to the COVID-19 Pandemic: Literature Review:](https://static1.squarespace.com/static/5f75bfbfb67fc5ab41154d6/t/618bdf2a6166520207116da5/1636556588695/Impact+of+COVID+-+Literature+Review+FINAL+Updated+Oct+21.pdf)
<https://static1.squarespace.com/static/5f75bfbfb67fc5ab41154d6/t/618bdf2a6166520207116da5/1636556588695/Impact+of+COVID+-+Literature+Review+FINAL+Updated+Oct+21.pdf>
 - 2 [Children and Young Persons Act 1933:](https://www.legislation.gov.uk/ukpga/Geo5/23-24/12/part/III/crossheading/youth-courts)
<https://www.legislation.gov.uk/ukpga/Geo5/23-24/12/part/III/crossheading/youth-courts>
 - 3 [Youth Court:](https://yjlc.uk/resources/legal-terms-z/youth-court)
<https://yjlc.uk/resources/legal-terms-z/youth-court>
 - 4 [Sentencing Children and Young People:](https://www.sentencingcouncil.org.uk/wp-content/uploads/Sentencing-Children-and-young-people-Definitive-Guide_FINAL_WEB.pdf)
https://www.sentencingcouncil.org.uk/wp-content/uploads/Sentencing-Children-and-young-people-Definitive-Guide_FINAL_WEB.pdf
 - 5 [Time to Get it Right: Enhancing problem-solving practice in the Youth Court:](https://justiceinnovation.org/sites/default/files/media/documents/2020-06/time_to_get_it_right_final.pdf)
https://justiceinnovation.org/sites/default/files/media/documents/2020-06/time_to_get_it_right_final.pdf
 - 6 [Youth Justice Statistics: 2018 to 2019. Annex D:](https://www.gov.uk/government/statistics/youth-justice-statistics-2018-to-2019)
<https://www.gov.uk/government/statistics/youth-justice-statistics-2018-to-2019>

Findings

The Operation of Courts during Covid-19

The early stages of the pandemic had the biggest impact on the operation of courts. It is a misconception amongst many people outside the court system that the courts closed during the first lockdown. This was not the case (whilst some court buildings closed, court business continued), although there was prioritisation over what business was listed and all non-urgent work was adjourned, following an announcement from the Lord Chief Justice⁷.

“The courts never stopped. The courts continued throughout and what they did was scaled back what kind of cases they were dealing with. They had no choice in relation to any defendants, youth or otherwise who were deemed a risk to the public and who came into custody, so those people who had been arrested and deemed too serious a risk to release on bail were kept in custody. They had to hear those cases because they’ve got a right to be before the courts within 24 hours or so of their arrest.” (Crown Prosecutor)

“I remember there being a period at the start when the only things that were open were the three remand courts, essentially. So, you were just dealing with the overnights. And there wouldn’t be that many youth overnights, to be honest. A youth would have to do something fairly severe to be kept on in remand. It’s generally only persistent offenders. And even very serious crimes, they’ll tend to be allowed out on a bail package. So, there may be only one or two a day in the Youth Court.” (Crown Prosecutor)

Harris and Goodfellow (2021)⁸ outline the most significant findings from the literature in relation to how court business was conducted throughout the pandemic:

Much court business, including new jury trials, was suspended in March 2020⁹. Business was consolidated into fewer buildings leading to the closure of almost half of the court buildings in England and Wales. However, the courts did not suspend business completely: Magistrates’ Courts initially heard only urgent work (eg overnight police custody cases and cases where a child was remanded in the secure estate).

7 The Lord Chief Justice of England and Wales (currently The Right Honourable The Lord Burnett of Maldon) is the Head of the Judiciary of England and Wales with statutory responsibility for, inter alia, the welfare and training of the judiciary of England and Wales, and for providing guidance to the judiciary.

8 The Youth Justice System’s Response to the COVID-19 Pandemic: Literature Review: <https://static1.squarespace.com/static/5f75bfbfb67fc5ab41154d6/t/618bdf2a6166520207116da5/1636556588695/Impact+of+COVID+-+Literature+Review+FINAL+Updated+Oct+21.pdf>

9 HMCTS Daily Operational Summary on Courts and Tribunals During Coronavirus (COVID-19) Outbreak – HMCTS Operational Summary: 25 March 2020: <https://www.gov.uk/guidance/hmcts-weekly-operational-summary>

Much of this urgent work was conducted remotely^{10,11,12}. From mid-April 2020, the senior judiciary instructed courts to prioritise listings according to three priority categories. The highest priority included urgent custody cases and the second priority category included serious and time-sensitive youth cases, such as ‘where delay might mean a relevant age-threshold was crossed’¹³. Jury trials recommenced in May 2020¹⁰ and gradually increased throughout the year leading to 90 per cent of all courts being reopened by September 2020¹⁴. Continuing social distancing measures mean that court buildings cannot hold as many hearings and trials as in the pre-pandemic period¹⁵.

HMCTS began to issue (and regularly update) advice and guidance for court users, explaining what to expect when coming to court, and what safety and hygiene measures were in place¹⁶. For children attending court in person or remotely, child-friendly guidance was produced by the YJB and HMCTS, but not until June 2020¹⁷.

Throughout March 2020 to February 2021, the number of cases received by Magistrates’ Courts was lower than in pre-pandemic times and the same was also true for Crown Courts until August 2020. Despite this, the number of disposals fell¹⁸.

Drawing on Criminal Justice Statistics¹⁹, Harris and Goodfellow (2021) calculated that in the year ending December 2020, 27 per cent fewer children were sentenced than in the previous year. This is set against an already declining number of sentences. Between 2018—19 there was a 13 per cent decrease and between 2017-18 there was a 16 per cent decrease²⁰.

GM legal professionals routinely commented that they felt that the Magistrates’ Courts had returned (almost) to normal relatively quickly, which they attributed to the variety of ways in which HMCTS had adapted its processes as part of its recovery plan. Key to this plan was the reduction of the backlog of cases to be heard. A ‘Task and Finish’ group was established to specifically deal with clearing the backlog. Trials were highlighted as being especially difficult (compared to, for instance, remand hearings) due to the extra factors involved in running a trial (notably, the use of witnesses).

10 Impact of the Pandemic on the Criminal Justice System: A joint view of the Criminal Justice Chief Inspectors on the Criminal Justice System’s Response to Covid-19:

<https://www.justiceinspectorates.gov.uk/cji/wp-content/uploads/sites/2/2021/01/2021-01-13-State-of-nation.pdf>

11 Priority Courts to Make Sure Justice is Served:

<https://www.gov.uk/government/news/priority-courts-to-make-sure-justice-is-served>

12 HMCTS Daily Operational Summary on Courts and Tribunals During Coronavirus (COVID-19) Outbreak:

<https://www.gov.uk/guidance/hmcts-weekly-operational-summary>

13 Note on Listing in Magistrates’ Courts – COVID-19:

https://www.judiciary.uk/wp-content/uploads/2020/07/07072020_-_Amended-Note-on-Listing-Magistrates-re-breaches-APPROVED-3.pdf

14 Jury Trials to Resume This Month:

<https://www.judiciary.uk/announcements/jury-trials-to-resume-this-month/>

15 Suspected Criminals Held for Longer as Criminal Courts Recovery Plan Announced:

<https://www.gov.uk/government/news/suspected-criminals-held-for-longer-as-criminal-courts-recovery-plan-announced>

16 Coronavirus (COVID-19): Courts and tribunals guidance:

<https://www.gov.uk/guidance/coronavirus-covid-19-courts-and-tribunals-planning-and-preparation>

17 Coronavirus and Court: Advice for children:

<https://www.gov.uk/government/publications/coronavirus-and-court-advice-for-children>

18 HMCTS Weekly Management Information During Coronavirus – March 2020 to February 2021:

<https://www.gov.uk/government/statistical-data-sets/hmcts-weekly-management-information-during-coronavirus-march-2020-to-february-2021>

19 Criminal Justice System Statistics Quarterly: December 2020:

<https://www.gov.uk/government/statistics/criminal-justice-system-statistics-quarterly-december-2020>

20 The Youth Justice System’s Response to the COVID-19 Pandemic: Literature Review:

<https://static1.squarespace.com/static/5f75bfbbfb67fc5ab41154d6/t/618bdf2a6166520207116da5/1636556588695/Impact+of+COVID+-+Literature+Review+FINAL+Updated+Oct+21.pdf>

One solution implemented was to deal with blocks of cases represented by the same firm of defence solicitors. This meant that only a single defence advocate and prosecutor were needed for multiple trials, all of which were reviewed in advance to ensure that they would be effective on the day of trial.

“The trial work is a different kind of kettle of fish altogether because trial work is always more difficult because you’ve got a lot more factors in play. But, yeah, I think looking at how we list cases, they did kind of something that was particularly helpful, which was brigading cases. So, getting one particular defence firm and saying, “Tell us all the cases that you have. We’ll re-review them. We’ll have these discussions. Is there any resolution?” And then took those all into court. So, you just had one defence lister, one prosecutor, both had discussions about cases. They were all reviewed and ready to go. And the court dealt with them as they could in that one day. So, that was a particularly successful way of dealing with cases.” (Crown Prosecutor)

It should be highlighted that whilst the summary work of Magistrates recovered relatively quickly, the case was not the same for youth work conducted in the Crown Court.

“There are, obviously, a lot more things in play in the Crown Court, the jury being the most difficult thing to try and manage in terms of social distancing. So, youth work in the Crown Court remains a problem as is the adult work and the Crown Court.” (Crown Prosecutor)

Legal professionals explained that legally qualified judges as opposed to lay magistrates were used increasingly in the Youth Courts. From a social distancing perspective, this meant that the bench consisted of just one judge rather than three magistrates, thereby reducing the number of people required in the courtroom. Professionals highlighted that the increased use of District Judges was significant to the recovery process in two ways: firstly, they began sitting on Saturdays to preside over remand courts for defendants arrested on Friday nights.

“Judges never sat on a Saturday, it wasn’t in their being to sit on a Saturday but for the first few months of the pandemic we had to bring judges in to hear the cases on a Saturday morning. That was a big difference as well, right at the beginning” (Crown Prosecutor)

Secondly, the use of District Judges meant that hearings could be conducted more quickly, since the fundamentals of law did not have to be explained.

“Realistically, it should be irrelevant. However, magistrates...have no legal background a judge does. So, you don’t push on an open door to say, “Well, this is a GBH [grievous bodily harm], sir.” And then go on to explain it. He knows exactly what a GBH is. He knows exactly how to deal with children because he’ll have been a specially selected District Judge to deal with children. So, he knows the score. He knows what difficulties we will encounter and how to handle the court. So, what we found was during the lockdown... and it’s still quite prevalent now, is that we tend to get more District Judges sitting because they know the law, you don’t have to explain it and they do actually get through things a lot quicker” (Crown Prosecutor)

To further reduce the backlog, Nightingale courts were opened as well as the re-opening of previously closed buildings to increase capacity and hear more cases. Youth work typically heard in the Magistrates’ Court started to be heard in the physical Crown Court buildings where social distancing could more readily be implemented (still within the procedural rules of the Magistrates’ Youth Court), whilst Crown Court work would then move to larger buildings like hotels and footballs stadia to accommodate the larger number of people required to conduct Crown Court trials.

“In terms of trials, I know that we essentially opened a bunch of the outside courts that were perhaps previously slightly under-utilised. They wouldn’t run full amount of courts every day. They’ve now, basically, opened up all of those, and they’re just churning through the trials.”
(Crown Prosecutor)

Despite the listing of cases in Youth Courts generally now having returned to pre-pandemic levels, several professionals were keen to highlight that there were already delays in the Youth Courts and that Covid-19 exacerbated a pre-existing problem²¹.

Prioritisation of Cases

Throughout the pandemic youth cases were deemed to be a priority (along with custody hearings and domestic abuse trials), so received priority in terms of court listings (known formally as ‘Category 1’). This was confirmed by most of the GM interviewees and reflects the national picture more widely, wherein a Youth Justice Working Group was established to support HMCTS’s work to minimise delays in the Youth Court. The working group met ‘regularly’ to monitor progress on recovery plans, identify options to reduce backlogs, develop criteria for prioritising cases, and to minimise ‘unnecessary’ child appearances at court²². However, within Youth Court work itself, except for custody hearings (which always received priority, whether in the Youth or adult Courts), there was uncertainty amongst professionals in terms of additional formal prioritisation. Some commented that youth hearings were re-listed in the same order that they were originally listed.

“Custody cases, domestic cases, youth cases were given priority in terms of court listings and priority work. Custody cases will obviously always go first in any event, it will be the custody cases. Other than that, there won’t be, it will be just in terms of time, whichever one was listed, or was before the court first, we’ll try and hear the soonest. The only priority you’re given in the Youth Court really is if you’re in custody.” (Crown Prosecutor)

However, some felt that other factors were considered throughout the listing process.

“Youth trials were automatically category one. But then I think even within that there was some filtering as to which one’s kind of we did need to get going as soon as possible. It’s just to find the sensitive ones involving violence. And, like, youth work can all tend to get clumped together because we keep... we keep even really serious youth stuff in the Magistrates’ Court. In a Youth Court, we can keep everything up to rape. In fact, the only thing we send upstairs really with youths is section eighteens and murders. Like, we have section 20s, we have kind of fairly extreme violence. So, those ones were, obviously, made the priority cases to try and get up and running...I think once we got, like, first hearings for NGAP [Not Guilty Anticipated Plea], which is ones where it’s not a remand, but you’re brought for a first hearing often by letter or by conditional bail and then you plead not guilty, then it’s listed for trial. I think once we got those hearings back up and running, then there was a prioritisation.” (Crown Prosecutor)

Legal Advisors confirmed that Category 1 cases were always prioritised but that Categories 2 and 3 would be heard if resources allowed.

21 CPS Response to COVID-19: Dealing with backlogs – The impact of COVID-19 on the CPS to 31 December 2020: <https://www.justiceinspectors.gov.uk/hmcp/psi/wp-content/uploads/sites/3/2021/04/2021-03-05-COVID-pressures-accessible.pdf>

22 Children and Young People in Custody (Part 1): Entry into the youth justice system: Government Response to Committee’s Twelfth Report of Session 2019—21: <https://committees.parliament.uk/publications/4636/documents/46905/default/>

“What we have to do is we have to balance the resources, we always have to concentrate on priority one, but if we’ve got resources available and we can then go down the list priority two and three.” (Legal Advisor)

This disparity behind what prioritisation was actually taking place is, perhaps, of minor consequence for the reason offered by one Crown Prosecutor.

“To be honest it doesn’t really matter what the offence is because one youth defendant who is charged with a serious robbery and knife crime can just be as impacted as somebody who has never been before the court before and charged with simple criminal damage. It can be just as impactful on both of them for different reasons, so no, we don’t look at the offence and think right you need to go first. As long as you’re not in custody we’ll just try and get them through as quickly as we can.” (Crown Prosecutor)

For some Legal Advisors, there was a lack of clarity—at the beginning of the pandemic at least—in terms of how to categorise cases, although it was acknowledged that as the pandemic progressed, there was more certainty over how to operationalise policies.

“I don’t think it was clear at the beginning and I think that’s why some things might have been missed. So for example, whilst I was at home, I discovered a youth case that I thought fell into the urgent category and I contacted my immediate line manager and she disagreed with me that it did fall into that category. So we then had to send it to the next level of management up who did agree that it did fall into that category. So I think there was some confusion right at the beginning but I think following that discussion it was tightened up a bit and it was made a little bit more clear so that people fully understood what fell into what category.” (Legal Advisor)

Professionals reported a lack of clarity over listings and helplessness in being able to do anything to get cases prioritised.

“But we were ultimately in a situation where we couldn’t force the court or the Crown to list a case. We sort of had to wait until we got a new day. All we were really doing was really pushing, certainly for some of the more vulnerable clients of ours, really pushing for the next court date and seeing what was happening.” (Defence Solicitor)

An advantage which seems to have arisen through the pandemic is that, because of fewer listings, Crown Prosecutors had more time to scrutinise their lists of existing cases, with a view to ensuring that the oldest cases were dealt with first.

“One of the things we’ve done recently over the last few months is get a list of all the youth cases that we know are pending charge, looking at how old they are and going through them and getting a team of people go and start on the oldest ones and work through. That wouldn’t have happened I don’t think because we wouldn’t have had the available staff, pre pandemic.” (Crown Prosecutor)

There was also an attempt to review all youth cases that had been re-listed, on the basis that, particularly for low-level offences, expedient delivery of justice should be achieved if possible.

“There was a lot of cases that you’d look at and think it was a low-level offence... I mean they weren’t all low-level offences but it came to light there’s a lot of low-level offending here that’s now getting delayed quite a lot. Particularly with the youth, the idea being simple expedient summary, to get things dealt with quickly so it’s in their heads and has an impact as opposed to 12 months down the line after they nicked a bar of chocolate from a shop, it doesn’t have the same impact on a 14-year-old that this is the punishment for that.” (Crown Prosecutor)

Custodial Sentences

In April 2020, the Lord Chief Justice handed down a court judgment confirming the approach that courts were being encouraged to take to sentencing throughout the pandemic: ‘Judges and magistrates can ... and in our judgement should, keep in mind that the impact of a custodial sentence is likely to be heavier during the current emergency than it would otherwise be.’²³ The Sentencing Council then shared an update, confirming that the court should ‘bear in mind the practical realities of the effects of the current health emergency’²⁴ when making sentencing decisions. In particular, that courts ‘should keep in mind that the impact of immediate imprisonment is likely to be particularly heavy for some groups of offenders or their families’²⁵. GM legal professionals were asked what influence, if any, they felt this guidance had on the sentencing decisions made in the Youth Court. They maintained that sentencing was fair, and that when a custodial sentence was appropriate, this was handed down. Where the advice was perhaps given greatest weight was in borderline cases where a custodial sentence may or may not be appropriate.

“I think what it did was those that were perhaps borderline gave just that other little nudge one way or the other. It would, when something was clearly a custody case, it would be a custody case and the pandemic did not affect that in my view. I think I can say that categorically. The thing that it maybe did affect is...sometimes the kind of cases where perhaps you could be justified sending somebody to custody but there are reasons why perhaps it’s not relevant. It wouldn’t just be Covid in my view. I would never say just because of Covid you shouldn’t go to custody. I’ve never experienced that, and I’ve prosecuted in the Youth Court regularly. I would have raised that, had that happened.” (Crown Prosecutor)

In those borderline cases which did not conclude with a custodial sentence, it was felt that there was greater intervention from the Youth Offending Service.

“Whilst there is an expectation that potentially they might go to custody, I think what is tending to happen now is we’re getting longer youth rehabilitation orders, longer packages put together for them to be on certain types of orders so that they can be diverted, if you will, away from that type of behaviour again. So, there’s more intervention by the youth offending service on the ground in the area, rather than just saying lock them up.” (Crown Prosecutor)

23 Attorney-General’s Reference, R v Manning:
<https://www.bailii.org/ew/cases/EWCA/Crim/2020/592.html>

24 The Application of Sentencing Principles During the Covid-10 Emergency:
<https://www.sentencingcouncil.org.uk/news/item/the-application-of-sentencing-principles-during-the-covid-19-emergency/>

25 Impact of the Pandemic on the Criminal Justice System: A joint view of the Criminal Justice Chief Inspectors on the Criminal Justice System’s Response to Covid-19:
<https://www.justiceinspectorates.gov.uk/cjji/wp-content/uploads/sites/2/2021/01/2021-01-13-State-of-nation.pdf>

The Use of Cloud Video Platform and its Impact

The introduction of remote working in the courts was perhaps most clearly felt through the use of Cloud Video Platform (CVP). Legal professionals across GM highlighted both positive and negative aspects to integrating this technology into the courtroom. The difficulties, commented on by the majority of professionals, were most clearly felt in the area of interaction.

It stands to reason that the efficacy of using CVP would vary according to role. Advocates were largely grateful that court business could continue through the use of CVP. Indeed a major positive—and clear benefit in terms of court backlogs—was their ability to get through more cases in one day than would have been possible if they had to commute to different courthouses: the rollout of CVP ‘permitted prosecutors to be deployed efficiently, and in some instances, meant advocates were able to cover multiple court locations, bringing real benefits in continuity of representation’²⁶. Nonetheless, they were very much in favour of physical presence in the courtroom.

It is difficult to establish how prevalent CVP use was throughout the pandemic. Indeed, at the beginning of the pandemic, there were uncertainties about how and when CPS advocates should attend court²⁷. Whilst it was drawn on extensively at the beginning of the pandemic and less so (save for exceptional circumstances) at the time of writing (February, 2022), there does appear to have been a strong reluctance to use CVP in Youth Courts.

“As I say, you need to liaise, you need to talk to people on youth cases to be able to progress them properly and although you can do that when you’re remote, it just wasn’t the best thing to do in our view. We thought that as a priority case, particularly youth defendants we needed to be there. Yes, the odd one, as I said, by exception may have been done over the link. The majority were a physical attendance.” (Crown Prosecutor)

The majority of professionals felt very strongly that where they were able to be physically present in court, they did attend and avoided remote appearance.

“We had this idea that if our clients were going to be brought to court, we ought to be present, and I had some sympathy for that, myself. So, yes, if the individual was in the court building, which almost certainly they were, then I think many of us felt we ought to be with them.” (Defence Solicitor)

Practice also appears to have varied depending on the professional role assumed within the courtroom. Crown Prosecutors and defence solicitors largely advocated for physical presence where possible, but noted that other participants within the courtroom (eg witnesses, police officers) were more likely to be supported in appearing via CVP.

26 Impact of the Pandemic on the Criminal Justice System: A joint view of the Criminal Justice Chief Inspectors on the Criminal Justice System’s Response to Covid-19:
<https://www.justiceinspectorates.gov.uk/cjji/wp-content/uploads/sites/2/2021/01/2021-01-13-State-of-nation.pdf>

27 CPS Response to COVID-19: 16 March to 8 May 2020 – An inspection of the CPS during the period prior to and during the national lockdown:
<https://www.justiceinspectorates.gov.uk/hmcp/psi/wp-content/uploads/sites/3/2021/04/2020-11-03-CPS-COVID-19-accessible.pdf>

“Police officers are quite used to giving evidence by CVP. And in fact, even before covid came in because they didn’t want police officers, say, coming into [one area] from [another area] or somewhere like that. They would say, “Well, he can give us evidence from [area] Police Station in one of our rooms. And that was something that we were trying to push forward quite a lot.”
(Crown Prosecutor)

The approach to CVP varied throughout the pandemic: at the start of the pandemic, applications to appear via CVP were routinely granted, in the middle of the pandemic there was variable practice between courts in terms of whether applications were treated more favourably, and in more recent times, there is an expectation that all participants will be in attendance. GM professionals’ perceptions over the use of CVP appear to echo the national picture, that CVP declined in use after its initial increase (at the start of the pandemic) and that from January 2021 there seemed to be ‘a clear judicial preference for in-person court attendance’²⁸.

Professionals highlighted that the granting of CVP applications not only changed throughout the period of the pandemic, but also varied from court to court and borough to borough.

“If there are any issues, if my internet went down, I mean, I don’t live far from court so that’s fine. But my manager would say, “Right, we’ll send someone in or we’ll sort another CVP. Whereas [area], for example, have really been quite difficult about it, and have said at the start of the week, “We’re not granting any this week.” But I’ve been in court there before, and then a defence solicitor will email in and say, “Can I join up with CVP?” “Yeah, fine.” So, there’s been a bit of, you know, there’s been a bit of tension, I think, between that. So, yeah, I imagine nationally, it’s probably area by area or court by court even...for [area] to say we’re not giving any this week would have come from probably their sitting judge, I would have thought.” (Crown Prosecutor)

CVP therefore clearly had some limitations but that is not to say that professionals did not recognise the positive value of CVP. A key consideration here is that court business was able to continue, albeit remotely. One professional elaborated on this point by highlighting that during the first lockdown, it enabled vulnerable professionals to continue working whilst adhering to the government’s ‘stay at home’ instruction. A further interviewee independently elaborated this point by highlighting that there is a limited pool of prosecutors able to prosecute in Youth Courts and that the pool becomes smaller still once colleagues who were vulnerable were unable to enter the physical courtroom. CVP was therefore particularly valuable in enabling the CPS to continue to run the courts at the required level of capacity since even those with vulnerabilities could participate in court business remotely. One professional did highlight, however, that for the child physically in the courtroom, having the prosecutor (and potentially the defence advocate) appearing through CVP may have been problematic.

“So, if the youth was arrested and remanded before the court for securement, they would still be in the courtroom and the defendant would still be present...But to have that level of change whereby there isn’t a prosecutor in the room, potentially your defence advocate is not in the room with you either, yeah, it has to be, you imagine, something difficult for them to deal with.”
(Crown Prosecutor)

Another professional highlighted that it can be more difficult for young defendants to engage with the court through CVP.

²⁸ Impact of the Pandemic on the Criminal Justice System: A joint view of the Criminal Justice Chief Inspectors on the Criminal Justice System’s response to Covid-19:
<https://www.justiceinspectorates.gov.uk/cjji/wp-content/uploads/sites/2/2021/01/2021-01-13-State-of-nation.pdf>

“And, you know, it’s difficult enough for an adult to kind of have a proper conversation over virtually. We’ve all got used to it. But particularly for a young person and maybe for a young person that is struggling, the buy-in, the engagement, you know, there’s just too many distractions. You take them into a room where they’ve only got the youth offending service to talk to, you may well get something out of them. Put them in their own house with a screen in front of them, and, you know, all these distractions, you’re just not going to get the same kind of discussion with them. So, I think that was particularly difficult and would have been more difficult for the youth than with the adults.” (Crown Prosecutor)

Children’s ability to concentrate on proceedings over CVP was raised by some interviewees who made the important point that a bench of magistrates in the Youth Court would generally be able to respond appropriately to a child who is “drifting off” whereas this may be missed over CVP. This potentially calls into question whether children are fully able to participate in their own hearings when conducted remotely.

“So, we can stop and say, “Look, the system’s not working or the lawyer’s not been able to contact with his client properly.” We just say, “Right, we’ll stop it here.” Does the youngster in the court understand what’s going on now? And this is the point you’re having to explain quite a lot. Whereas if you’re there in person, he can just tap you on the shoulder and say, “Look, do you want a break now while I explain everything to you?” It’s vitally important in the Youth Court. We have to ensure, you know, kids aren’t adults. They have a very, very short attention span.” (Crown Prosecutor).

The ability to monitor children and their ability to participate in their own hearings feeds into the bigger issue of effective participation: the ability to understand and be involved in what is happening in court²⁹. Even before the outbreak of Covid-19, the use of live links in criminal court proceedings raised concerns that existing difficulties (eg mental health conditions, neuro-diverse conditions, cognitive impairments) were exacerbated^{30,31,32}. The literature indicates that criminal justice professionals in England and Wales felt that remote hearings prevented defendants from participating effectively, and the comments from the legal professionals across GM support this. When asked whether they had to make special efforts to ensure children were participating effectively in their remote hearings, no one felt that they had to adjust their advocacy or representation necessarily and did not appear to be aware of any guidance which dealt specifically with the use of remote hearings for children. This appears to be at odds with government assurances that ‘there is a range of guidance available regarding the use of remote hearings for children’³³.

The advantages of CVP in terms of defendants (and their families) having to travel to court were also highlighted.

29 Effective Participation:

<https://yjlc.uk/resources/legal-guides-and-toolkits/effective-participation-and-fitness-plead>

30 “They Just Don’t Understand What’s Happened or Why”: A report on child defendants and video links:

<https://static1.squarespace.com/static/5f75bfbbf67fc5ab41154d6/t/5fb3c580fe81d959f1c1c88b/1605617028255/Child+defendants+and+video+links+Report.pdf>

31 Inclusive Justice: A system designed for all:

<https://www.equalityhumanrights.com/en/publication-download/inclusive-justice-system-designed-all>

32 Defendant’s on Video – Conveyor belt justice or a revolution in access?:

<https://www.transformjustice.org.uk/wp-content/uploads/2017/10/Disconnected-Thumbnail-2.pdf>

33 Children and Young People in Custody (Part 1): Entry into the youth justice system: Government Response to Committee’s Twelfth Report of Session 2019—21:

<https://committees.parliament.uk/publications/4636/documents/46905/default/>

“I think that’s brilliant to be fair because they end up... all over the country, don’t they? Why would you trawl up a 15 year-old boy from the other end of the country to come to court just to be remanded? So they’re brilliant for that. We do a lot of video links, adults and youths, in that way and for me, that’s perfect... We can sentence them over the link. If they’ve pleaded guilty to something and it’s just for the PSR [pre-sentence report] to be prepared and they’re in say, I don’t know, ... somewhere that’s a bit of a journey... I think we do also, it’s not just about them, it’s about the cost to the public purse as well.” (Legal Advisor)

Children’s Engagement with the Courts

All cases involving children must be dealt with expeditiously and avoid delay, which has at its core the principle that there is little point in conducting a trial for a child long after the alleged commission of an offence when they will have difficulty in relating the sentence to the offence. To maximise the impact on the child, the case must be dealt with as soon as possible³⁴. Many of the legal professionals highlighted the adage that “justice delayed is justice denied” in relation to not hearing youth cases quickly enough.

“How can you punish your child for something that happened over a year ago?” (Crown Prosecutor)

As Harris and Goodfellow (2021)³⁵ highlight, “[t]he Public Accounts Committee, HMCTS and news reports have acknowledged the distress and uncertainty backlogs cause and the impact this has on the wellbeing of those awaiting their hearings or trials^{36,37,38} with magistrates highlighting that the impact will be felt disproportionately by children.³⁹” As might be expected, then, several professionals were concerned about the impact of further delays to cases in the Youth Court and particularly the impact that this might have on young defendants. They raised concerns regarding the mental well-being of children who were awaiting hearings.

“There’s definitely a whole cohort of young people... this has been particularly the ones who are the one-timers. I felt bad for them because a lot of them had this hanging over them for a lot longer. Like, a lot of them are really nice kids and they just were hanging out with some kid who’s brought them down on a path. And you can see how nervous and terrified they are about the whole thing and you can’t help but have sympathy for them. So, I definitely think a lot of them have it hanging over them for that extra time and their families as well.” (Crown Prosecutor)

34 Coronavirus: Interim CPS case review guidance – Application of the public interest Covid-19 crisis response:
<https://www.cps.gov.uk/legal-guidance/coronavirus-interim-cps-case-review-guidance-application-public-interest-covid-19>

35 The Youth Justice System’s Response to the COVID-19 Pandemic: Literature Review:
<https://static1.squarespace.com/static/5f75bfbbfb67fc5ab41154d6/t/618bdf2a6166520207116da5/1636556588695/Impact+of+COVID+-+Literature+Review+FINAL+Updated+Oct+21.pdf>

36 Key Challenges Facing the Ministry of Justice:
<https://committees.parliament.uk/publications/5195/documents/54053/default/>

37 Youth Court Closures in England and Wales due to Covid ‘have almost double backlog’:
<https://www.theguardian.com/society/2020/nov/20/youth-court-closures-england-wales-due-to-covid-doubled-backlog-cases>

38 Covid Leading to Four-year Waits for England and Wales Court Trials:
<https://www.theguardian.com/law/2021/jan/10/covid-leading-to-four-year-waits-for-england-and-wales-court-trials>

39 Children and Young People in Custody (Part 1): Entry into the youth justice system: Government Response to Committee’s Twelfth Report of Session 2019—21:
<https://committees.parliament.uk/publications/4636/documents/46905/default/>

“And I think I had one case where he was about to be sentenced for quite a serious offence. He was very, very nervous about it. And he was due to be sentenced, I think the week that Covid struck. And then obviously gets put off. So, he had it over his head, I think, for about eighteen months, two years already and then it got put off for another couple of months. And it was just... for him it was hell because it was another two months of not knowing if he was going to go to prison or not.” (Defence Solicitor)

Professionals also highlighted how a child’s memory may become unreliable over time and that this may make them seem unbelievable in the eyes of the judges.

“I have had a couple of cases during the course of this, when you’re asking a youth about something that happened eighteen months ago and invariably, they don’t know the answers because it was eighteen months ago. ... I definitely saw a few where I kind of thought, yeah, this is, definitely, going to hurt your case on the basis that it is just tougher to remember something that long ago.” (Crown Prosecutor)

Several professionals were also keen to point out that a potential consequence of delayed hearings is that children may become disaffected with the criminal justice system.

“Yes, and I also think that it’s being created by the delays because I think young people cannot understand why I’m getting punished now for something that happened two years ago, they just can’t understand that.” (Defence Solicitor)

The long-term impact of this strategy was recognised.

“I think they’re definitely prioritising, quite understandably, serious offences. The impact of that is that there’s a general belief that generally won’t get in trouble for anything that’s not particularly serious, or it’s making the community less, it’s making it more lawless, some estates are getting really lawless now.” (Defence Solicitor)

However, delays were not always perceived to be disadvantageous to children and some comments made by professionals confirmed a particular advantage being conferred on children through delays to their hearings.

“There’s the kid who got talked into doing something stupid and is never going to do anything again. And for those ones, often, the fact that we will be hearing their cases much later meant that by the time they came to be sentenced, they would have had eighteen months where they hadn’t done anything else. So, when the bench has come into sentence them... essentially the key principle of youth justice is to stop reoffending. So, when the defence is getting up to say, they would say, they haven’t reoffended in eighteen months, which is, ultimately, the goal here...if you were that kind of defendant, you would have the benefit of having that and the sentence tended to be reduced down because ultimately, you’ve already proved for eighteen months, you weren’t going to do it again.” (Crown Prosecutor)

The fact that offences were also ‘rolled up’ also sometimes conferred an advantage on a young defendant, who may end up receiving a lesser sentence than if their offences had been heard separately.

“So, the fact that sentences are all rolled into... so, three or four offences are rolled into one sentence would generally mean there’ll be times when... for an offence that if they had had them separately, they would have ended up looking towards prison, they ended up getting referral orders. So, there’s a lot of offenders for it worked out quite well, to be honest. I remember thinking this has worked out quite nicely. Honestly, it’s not ideal.” (Crown Prosecutor)

One defence solicitor was untroubled by there being a potential advantage to a child.

“I think that young people have had to put up with an awful lot over the past 18, 19 months and if some of them have benefitted slightly because their case took many, many months to be finalised, well, so be it and that’s the least that society can do for them.” (Defence Solicitor)

Space limitations within the courts had an impact on children—and their families—in terms of having access to the courtroom. Social distancing requirements meant that the courts were not open to everyone and strict limits on the number of participants were enforced. This created issues for the families that wanted to support the child, and indeed the child themselves who wanted their family support.

“I think there was only maybe a couple of cases where people wanted someone in with them. I had one trial sort of further down the line when it was two defendants. It was in quite a small court and we had probation, we had obviously two defence solicitors, a prosecutor, the legal advisor, the usher. And initially, they said, “Look, we can’t...” They both had parents with them and they were like, “We can’t have them both in the courtroom. So, there’s nothing we can do.” And ultimately, the clients were really, really annoyed about that. And I think the parents were a bit annoyed as well. So, the court did actually facilitate it, so they could come in.” (Defence Solicitor)

“They’d be wound up by the time they got into the building if they’d had an argument with security staff about who could come in. Sometimes, I’d get a call on my mobile saying we can’t bring in so and so, and I’d have to come down to the door and speak to security and say, “Come on, let him bring two people in.” It’s not winding them up, because a lot of the young people who appear in court, most of them have behavioural issues or ADHD, and anything that gets them into a confrontational issue is not helpful before you’re then going to try and present yourself in a positive way to the magistrates.” (Defence Solicitor)

Practice appears to have been variable between the Youth Courts, with some sticking rigidly to maximum occupancy levels, and others being more flexible.

“Well if there was more than one member of the youth offending team then we would only allow one of them in. I mean sometimes they bring both parents and a grandparent so we had to say, “Look, we’re limited to numbers. Just one of you can come in. Do you want to decide between yourselves which one of you are going to come in with the young person?” which is not ideal because if my daughter was in court, both me and my husband would want to be there. So it was challenging and to be honest with you, we did break that rule sometimes. We made sure that people were socially distanced but we just maybe had to move people around the room just to make the distance because some families were very upset at not being able to come in. So it worked. Sometimes we had to make it work.” (Legal Advisor)

“So it did cause problems because more often than not, because of the Covid rules and social distancing, they could only bring one person into the court room with them because you’ve got the prosecutor and the solicitor who obviously need to be in. So then sometimes they will turn up say with mum and dad or with whoever and somebody would have to stay outside because we couldn’t fit them all in. As things have eased a bit, I’m not saying we never break the rules and have more in the court room than we should... but sometimes it’s necessary. If you’ve got a mum and a dad who are very supportive of a child and want to come into the court room with them, how do you say to one of them... for instance, we would maybe get the usher to wait outside so that freed up a spot and that kind of thing.” (Legal Advisor)

Some Youth Courts moved physically into another building or another court within the same building. This was largely to accommodate the greater number of participants in youth hearings compared to adult hearings, which was difficult in Youth Courts which were smaller rooms. It was interesting for interviewees to reflect on the impact to children of having their case heard in the Youth Court whilst being situated in the physical space of an adult courtroom.

“You know, in the old courts they were on a chair with their mum or their dad or their carer or social worker, and they’d be huffing and puffing. Just normal, like totally normal... Oh, this is ridiculous. F this and F that. And I think they’re probably quite scared when they walk in there [adult courtroom]. Some might say, not always a bad thing. But it’s not what we’re meant... it’s just not, you know, what we’re meant to do, you know. I think they probably are scared. So, they’re probably quieter. But, you know, on the flip side, they’re probably less engaging aren’t they because of it... like I say, you know, that intimidating courtroom, maybe their response has changed. Maybe they’re less engaging or engaged with the bench or the judge.” (Crown Prosecutor)

The need for adjournments created additional problems for children. As noted above, any form of delay was considered more problematic for children than for adults, due to the need for more immediate impact/intervention. However, one GM professional highlighted a problem with issuing adjournment notices. In some cases, people moved home, and the adjournment notice was incorrectly sent to the child’s last known address.

“Now, this led to its own inherent problem because what was happening is the adjournment notices were getting sent to the address where the child was last known. That may not have been the correct address. And that happened quite a lot. So, we were at first, sadly, issuing warrants for the arrest of children coming into court.” (Crown Prosecutor)

The effect was that people would often turn up to court on the date of the original listing rather than the adjournment. Professionals felt that the practice of issuing arrest warrants was wrong and that more needed to be done to give the child an opportunity, and to better assist the court. It also increased the backlog because of the extra court work involved in issuing arrest warrants. In response to this issue, some interviewees explained that the CPS became more pragmatic and started to work with the police to ascertain whether the child’s last known address was correct.

Timed Appointments

In pre-pandemic times, court business was blocked, with defendants being instructed to arrive at court for either the morning or afternoon session. This allowed the courts to deal with business more flexibly (eg another case could be heard whilst a defendant needed to speak with a solicitor, or a case could be heard later if a witness had not yet turned up). However, in response to the need to reduce footfall in court buildings, a system of timed appointments was implemented. Although practice appears to have differed between courts, the court security team would typically refuse admission for those people who turned up too early, keeping the numbers of people inside the court at acceptable levels of safety. An additional benefit over social distancing was that appointments later in the day may be more appropriate than early morning appointments for children.

“Well they’re not very good at keeping to appointments, are they, but I suppose if they were given a later slot like 11 o’clock, that’s probably better for a young person than 9:30am, isn’t it? So I’m sure a lot of them would probably have been grateful for that.” (Legal Advisor)

Whilst this approach appears to have worked in principle, interviewees did highlight that timed appointments created problems when defendants did not turn up for their allocated appointment. A further, similar problem related to the rigidity that timed appointments imposed on hearings. For instance, if a solicitor needed to confer with the child following new evidence being served by the prosecution, the case would have to be stood down until the next available appointment.

“It means you can’t prepare the cases well because you’re not able to, say you get some new evidence served on you from the prosecution that they didn’t have available at the first appearing, normally, you’d book a visit, go and see your client, and say, “Right, also, this is this, and this is what this is, what do you say about this?” And instead, you’re having to wait until the next court hearing and try and see them in the 20 minutes you’ve got available or half hour you’ve got available before you go into court, which isn’t satisfactory at all.” (Defence Solicitor)

Differences in Types of Offences during the Covid-19 Pandemic

Legal professionals were asked about patterns of offences and specifically whether they had noticed a change in the sorts of cases brought before the GM Youth Courts during the pandemic compared to pre-pandemic times. The first noticeable effect was that there were generally fewer children in the courts, largely as a result of out-of-court disposal orders. Anecdotally, professionals felt that there had been an increase in domestic violence cases (eg where a child has committed violence against their parents), reflecting the overall national picture of increased domestic violence cases in the adult courts. Some offences decreased in prevalence. As might be expected, these were a consequence of the lockdown itself, so professionals in the GM region noted a decrease in offences relating to anti-social and public-related offences.

Whilst lower-level offences were generally not prosecuted over this period, one defence solicitor explained that, from his perspective, minor offences against the police were still prosecuted.

“I think there are less minor cases coming to court which makes me think the police are just trying to clear their backlog by not prosecuting lots of things. The only minor cases that I think come to court now tend to be ones where somebody’s sworn at a police officer, anything to do with the police, they’ll still bring it to court. But any other minor cases, they generally don’t, unless it’s a target offender that they particularly want to focus on. So, I’d say it means that a higher percentage of the cases appearing in court are for serious offences.” (Defence Solicitor)

Several professionals noted that there were obviously a range of Covid-19-related offences that were prosecuted in the courts, resulting from the enactment of Covid-specific legislation, but these were typically dealt with through the single justice procedure and the perception was that it was mainly adults who were prosecuted for these offences rather than children.

It is interesting to reflect on the changing nature of pleas throughout the pandemic. Although only anecdotal, one professional commented that there were more guilty pleas during the start of the pandemic, when any effect of community orders would be minimal.

“But one of the things that I did notice during the pandemic is that, particularly towards the start of it, there was a lot more guilty pleas to things where before there probably wouldn’t have been a guilty plea. I got the impression that a lot of people thought, “Well, I’m probably going to get a tag for this. So, has there ever been a better time to be on the tag? I’ve literally, nothing to miss ... Then as we started to come out of the pandemic that went away. Suddenly everyone was not guilty again because they realised during the summer, they realised they could... they could go to the pub again.” (Crown Prosecutor)

Youth Courts in a Post-Covid World

Focussing on the short term, legal professionals identified that the short-term challenges of Covid-19 include the continuing impact of delays in the system and dealing with the backlog, as well as making children aware that their offences are still crimes, even though they might have been dealt with via an out-of-court disposal order.

“I think for youths it’s going to be an understanding that actually these crimes are crimes and that if they continue, they’ve been given chances perhaps they might not have had pre-pandemic and now this is how it’s going to be and crimes will be punished. Obviously we’ll deal with out of court disposals in the way we can do but if they’re not being complied with or they are continuing to offend, that they are going to come back before the courts and they are going to be dealt with in a robust manner.” (Crown Prosecutor)

Concern was also expressed over how well children had been supervised during the pandemic.

“I imagine there are young people who ought to have been supervised in different ways. For good reason that supervision probably couldn’t have taken place. It probably hasn’t taken place. There’s probably services that they might have been directed towards probably haven’t been able to function. So I think those are all fairly negative impacts as a result of the last 19 months.” (Defence Solicitor)

In the longer term, there was concern that Covid-19 restrictions meant the Youth Offending Service was not able to offer all of their usual support (eg group work sessions) and that the interventions offered may not have been sufficient to prevent reoffending.

“A lot of the work that’s usually done with them hasn’t been done... that’s definitely been a factor and will perhaps affect future offending rates if they’ve not been able to have the work carried out with them that the youth offending service have offered. If that work’s not been carried out with them then they’re not addressing underlying causes of the criminal offending behaviour and that can continue. That’s a concern I have.” (Crown Prosecutor)

Professionals also raised children's wellbeing as being a crucial area in the longer-term, as well as the impact of lost opportunities for interventions and their educational and social development.

"I think there will be huge issues that youth justice will have to tackle or will try and tackle. Mental health issues, I imagine will go through the roof. As I say, like, you know, being locked down here. Fine. Could deal with that. You know, these young people have probably... well, not probably. Some have been locked down, you know, in abusive families and, you know, without friends and without teachers and without CAMHS [Child and Adolescent Mental Health Services] and without youth justice and social services stepping in. I think that could potentially be, you know, an epidemic of its own, you know, the mental health of the country. But in terms of youths, their development as well educationally and socially, I think, will be a big problem." (Crown Prosecutor)

In the longer-term, there was concern that a whole generation of children have spent considerable periods of time outside of school where the formal diagnoses that might ordinarily have been obtained may be missed. This will likely have long-term consequences for wider society, and especially in relation to children who are justice-involved. This will inevitably create a future burden for various services to tackle as they attempt to deal with issues that could have been identified sooner.

"I suspect there are young people, an awful lot of people, young people who appear in the criminal justice system or within the criminal justice system have problems, mental health problems and things of that kind. I dare say those will have gone undiagnosed and untreated, and society I'm afraid will still be feeling the effects of that in five or six years' time as they get older." (Defence Solicitor)

The issue of trainee legal advisors in the Youth Courts was raised by legal advisors. Specifically, it was highlighted that at the current period of time, there has been an influx of trainee legal advisors to replace those who have retired or left the profession because of sickness. Professionals questioned whether these new trainees have had the best training and learning experience in the Covid-19 environment and what impact this might have on the future operation of the Youth Courts. In the more immediate time frame, there was concern about staffing levels within the courts, since the trainees could not yet take their own courts.

"Trainees, the clue is in the name, they need training. We've got some bright, wonderful people coming through the ranks but they need training. So we are short staffed.... If all those trainees are trained and can take courts, I think it will be much better but in the short term...." (Legal Advisor)

Further, as discussed above, the sense of disaffection that may develop in children in relation to criminality may become significant further down the line.

"There's a general presumption amongst a lot of young people that you can do things and nothing happens, and the police might bring you into the station for a few hours and that's all that's going to happen, which I don't think, and as I say, due to the reduction in the number of cases being brought to court, they are having to prioritise more serious cases and therefore, there's also a presumption that you can get away with lots of minor criminality, and I don't think that's very good in the long term. And I'm afraid there's a whole sort of section of young people who have missed out on getting any intervention from the youth offending service until two years after they should've done, partly because of Covid and partly because of Greater Manchester police's difficulties." (Defence Solicitor)

Conclusions and Considerations

This briefing paper makes an extensive contribution to understanding the impact of the pandemic on the Youth Courts in Greater Manchester. The success of HMCTS's recovery plan means that in terms of listings, the Greater Manchester Youth Courts have largely returned to pre-pandemic levels. However, the national picture shows that the delays in the Youth Courts were a pre-existing problem which Covid-19 exacerbated. This briefing highlights the impact of delays on child defendants and especially on their mental wellbeing, quality of their evidence, and an increasing disaffection with the criminal justice system. In terms of CVP, the national literature indicates that even before the pandemic, concerns were raised about the impact of live links in exacerbating existing difficulties (eg mental health conditions, neuro-diverse conditions, cognitive impairments), which may have prevented child defendants from participating effectively in their hearings and trials. These concerns were borne out within Greater Manchester following the increased use of CVP.

This briefing further highlights the variability in practice between courthouses that appears to have operated in the region, particularly in relation to the granting of CVP applications. Whilst the national literature highlights the benefits to be gained from CVP (eg more efficient deployment of prosecutors) this briefing highlights that despite such advantages, the preference is very much for in-person attendance with children. Further, for many legal professionals, there was a lack of clarity over how cases were prioritised which led to feelings of helplessness in getting the most urgent cases heard. This has not been reflected in the national literature. Finally, in the long term, child defendants' long-term wellbeing has been raised as an issue. All this evidence should therefore inform youth justice policy and practice in a post-pandemic environment.

Based on the findings described in this paper we consider the following areas to be central for planning how the Youth Courts can evolve and adapt to deliver a service that recognises and addresses the impact of adaptations to court experienced during the pandemic:

- Covid-related delays have largely subsided but the more general issue of delays, prevalent even before the pandemic, still needs tackling, especially in Crown Courts.
- There appears to have been uncertainty over how cases were prioritised. Clarity may have enabled better communication between interested parties.
- The extra time available to legal professionals, particularly created through the adjournment of trials was useful, particularly to the CPS, for reviewing and re-prioritising the oldest cases and lowest-level offences. Post-pandemic, resources should be allocated to the continued review of cases.
- Physical presence in the courtroom was overwhelmingly the preference of advocates for ensuring the most appropriate outcome for child defendants.
- There was variable practice throughout the pandemic which created some uncertainty for advocates working across different Youth Court locations. Uncertainty was most felt in the areas of granting CVP applications, the number of people allowed into court to support child defendants, and how strictly timed appointments were enforced. For parity between courts, these issues may need to be addressed.
- Legal professionals raised concern about children becoming disaffected with the CJS due to delays. This may develop in young defendants the belief that they can get away with crime without consequences. If this is the case, an increase in crime over the coming years is likely.
- More work is needed around the practice of issuing arrest warrants for non-attenders. It is necessary to reflect on whether this was the best course of action at the time (particularly since in many cases arrest warrants were issued due to adjournment notices being sent to the wrong address).
- Child defendants' mental health is a major cause for concern in the future.

For further information about the project, please contact,
Professor Hannah Smithson h.i.smithson@mmu.ac.uk

