

VIII DEALING WITH YOUNG OFFENDERS

1 Guidelines

The following guidelines may help the court when it is dealing with young people.

When a person appears before the court, and that person looks as if they may be under 14 years, the court will need to check the age of that young person before it proceeds. The Police should know the person's age, as they will have been responsible for the investigation and the decision to charge. If the Police do not know the age of accused then the court should verify the person's age with the parents or by birth records.

2 Dealing with a Young Person Privately

If the court can, it should deal with the young person a little more privately.

When a case involving a young person is called, it is best to announce that the public will be excluded from the hearing. However, it should be made clear that anyone connected with the case, family of the young offender, or who is part of the court process, is able to stay.

3 Assistance for the Young Person

Usually, the plea of a young person should be taken when the young person's parent or guardian is present. This is because:

- they can give useful advice to the young person; and
- they usually have valuable information on the young person's position – whether they are attending school, getting into trouble with the Police, and whether they are living at home.

It may be a good idea, when the case has been called, to ask the young person where his or her parents are.

A young person must be able to talk to someone, and have someone to speak on their behalf, if this is what they want. This could be a parent, other relative or a public servant. It is worth finding out if someone like this is available to talk for the young person.

Remember that most criminal charges refer to offences that may be quite hard to understand. Explaining the charge is more important than just reading it out.

Taking a plea is also quite a frightening experience, and technical words are used in recording the plea. However what you need to really know is whether the young person agrees or not with the charge. Is it admitted? If it is, then that is sufficient to record a guilty plea.

Use of simple language is the best practice, in order to make a young person understand what is going on.

4 Not Guilty Plea – Defended Hearing

If the young person says that he or she is not guilty, then the case will proceed as if they he or she were an adult. In other words, a defended hearing will need to occur for you to determine guilt or innocence.

Ask the young person why they believe they are not guilty. Sometimes they do not understand that what they have done amounts to a crime. An example is theft where three young persons decided to steal some food, and one was given the task of being the lookout. Sometimes this person pleads not guilty, thinking that because he did not go inside, he has not actually committed the offence. But this may be quite wrong, as a matter of law.

Be conscious that it may be the first time that the young person has ever been in a court.

The Police should present their evidence in the usual fashion. But you may help a young person, in asking questions of the police or witnesses.

When it is time for the defence to give evidence, go out of your way to use simple language, and make sure everyone else in court uses simple language too. You may need to help the young person give their evidence, by asking some questions which gets their story out.

Keep the questions simple and straightforward saying things such as:

- Tell me what happened?
- What happened next?
- Why do you say that?

Police may ask questions but you must make sure that they are reasonable questions, and that the young person understands. At times you may need to interrupt by checking with the young person if they understand. One way to check if they understand is to ask them to repeat the question in different words.

5 Sentencing Young Offenders

You must have particular regard when sentencing young offenders because the greatest emphasis is put on rehabilitation of the offender rather than on punishment.

Before deciding how to deal with the convicted young offender, you should obtain any information related to his or her:

- general conduct;
- home surroundings;
- school record; and/or
- medical history.

This information will help the court deal with the case in the best interests of the young offender.

6 Conviction

A person under the age of 10 years cannot be guilty of an offence: Rule 114(1) of the Crimes Rules.

A person between the ages of 10 and 14 years cannot be guilty unless that person knew that the act or omission was wrong or illegal. Rule 114(2) of the Crimes Rules.