



## What does the Child Justice Bill say about legal representation?

When they were consulted in the drafting process before the Child Justice Bill was introduced to Parliament in 2002, most children said that they felt that having a lawyer would positively influence the result of their case. A significant number, though, were worried that lawyers might influence children to plead guilty, did not trust state lawyers, and felt they were better off speaking for themselves.

Since 2002, however, state legal aid has developed exponentially through the roll out of the Legal Aid Board's Justice Centres, which envisage having specialized Children's Units staffed by professionals with expertise in children's rights and child law matters, such as diversion. Between May and October 2007, these Centres provided services to nearly 25 000 children in the criminal justice system, illustrating that more and more children are taking up their constitutional right to legal representation.

The Child Justice Bill provides for child friendly legal practices for all lawyers representing children, including those who are paid for privately. Lawyers are expected to take instructions from children, as far as possible, to explain proceedings to children in language they understand, to promote diversion and minimize delays, and uphold the highest ethical standards.

The Bill does not clearly provide for the right to a legal representative at any of the envisaged procedures, as it is stated that privately paid lawyers have to apply for consent to attend an assessment or a preliminary inquiry, which should be changed.

The criteria for granting legal aid to a child accused are presently contained in the Legal Aid Guide. The Child Justice Bill is in some ways more restrictive than existing policy: it does not require legal aid to be provided where a child is facing a possible sentence of imprisonment, or where a child is detained awaiting trial and that child is 16 or 17 years old. The Child Justice Alliance proposes that this be changed to come in line with existing policy and practice.

Because lawyers can benefit children's defence, the Bill provides that children who require representation may not waive their right; when they refuse a lawyer, the Legal Aid Board will still appoint one to assist the court.