

**Back-on-Track Policy**

**June 2024**

**Contents**

[1. Introduction 3](#_Toc169532200)

[2. Early Revocation 5](#_Toc169532201)

[3. Court 5](#_Toc169532202)

[4. Induction 6](#_Toc169532203)

[5. Supporting the child 7](#_Toc169532204)

[6. Enforcement 8](#_Toc169532205)

[7. Missed Appointments 9](#_Toc169532206)

[8. Curfew Violations 11](#_Toc169532207)

[9. Bail Violations 12](#_Toc169532208)

[Non-Engagement with Bail Support 12](#_Toc169532209)

[Violation of Remand to Local Authority Accomodation 13](#_Toc169532210)

[Warning Letters 13](#_Toc169532211)

[10. Back on Track Meetings 14](#_Toc169532212)

[Further non-engagement 16](#_Toc169532213)

[Breach Proceedings (Prosecution for Failure to Comply) 16](#_Toc169532214)

[Contested Breaches 19](#_Toc169532215)

[11. Court Responsibility for the Listing Process 20](#_Toc169532216)

[Detention and Training Orders 20](#_Toc169532217)

[Breaches to be listed at the Crown Court 20](#_Toc169532218)

[Breach Reports listed at the Crown Court 20](#_Toc169532219)

[Breach of s90-92 and s226 and s228 Licences 21](#_Toc169532220)

[12. Breach Process Flow Chart 22](#_Toc169532221)

# Introduction

* 1. Tower Hamlets and the City of London Youth Justice Service believe in the ‘Child First’ approach when working with children on voluntary, and statutory orders. Throughout the spring of 2023, consultation with the Youth Justice and Young Peoples Service and Youth Justice Executive Board members took place to develop a new overarching vision for the service:

***The Youth Justice Service is dedicated to empowering children, promoting positive change and creating a safer community.***

* 1. We believe that every child has the right to live and grow up in a safe environment. We are committed to providing safe spaces and opportunities and making sure that the child always comes first. We seek positive experiences by creating opportunities to work together, to provide the right service at the right time, so all the children have equal access to support that will improve their life outcomes.
	2. This vision reaffirms our commitment to Child First principles and practice as well as providing the Partnership with an overarching vision.
	3. The revised (2019) YJB Standards for Children and Case Management Guidance provides directions to YJS Practitioners regarding enabling compliance and enforcement:

<https://www.gov.uk/government/collections/case-management-guidance>, and [Standards for children in the youth justice system](https://www.gov.uk/government/publications/national-standards-for-youth-justice-services)

* 1. This policy does not seek to replace the national guidance or case management guidance; however, it is designed to provide a local interpretation of good practice and principles for how we prioritise engagement with children and their parents/ carers and families so that enforcement is the last resort. This policy should therefore be read in conjunction with the YJB Case Management guidance.
	2. Children growing up in London must navigate a myriad of potential difficulties, depending on their circumstances, individual, familial, educational and relationships as well as neighbourhood, contextual and structural issues, including institutional and structural racism.
	3. Children who are subject to Court Orders, Community Sentences, Licences or Notices of Supervision, have an additional responsibility to engage with professionals who they do not know. In addition, perhaps they do not understand or agree with the intervention which has been developed to support them. It is possible that they are unable to comply with the requirements of their Court Order due to risk or safeguarding concerns.
	4. ***The ethos of Tower Hamlets and the City of London Youth Justice Service is that the children who we work with are viewed as Children First***. Child First recognises that children are different to adults – they have different needs and vulnerabilities, and they should not be treated in the same way. Furthermore, children should be treated according to their age, development, maturity and abilities. A focus is required on addressing children’s unmet needs, overcoming any barriers, and identifying their strengths and creating opportunities for them to realise their potential. The Youth Justice Service have a responsibility to manage the risk which children may pose to the wider community in terms of the initial offence(s) or if they commit further offences, and balance this with the safety and well-being of the child and enabling them to develop new skills and strategies which will enable them to move towards a positive and non-offending future.
	5. Tower Hamlets and the City of London YJS employ a Trauma Informed Child First approach when working with all children and we seek to build relationships, understanding and achieving active engagement with the children under our supervision.

**Our principles:**

a) All Staff should clearly outline YJS expectations to both the child and parents about the requirements of the order from the outset. Staff should also inform children and parents of the consequences of failure to participate with their order.

b) Staff should make every effort to enable engagement and support the child to successfully complete their order.

c) Effective communication and participation, leading to the creation of positive relationships with children and their parents/carers is central to enabling compliance.

d) YJS Practitioners should always use their professional judgement and exercise their professional discretion in relation to the enforcement of orders. Where YJS Practitioners choose to exercise their professional discretion to depart from the required enforcement arrangements in National Standards, they should always discuss with a manager and the decision should be documented on Childview.

e) Managers along with Practitioners will use greater discretion and professional judgement to ‘support the road to engagement’ in the management of statutory orders, including decisions about breach action. They should ensure that barriers to engagement are addressed and overcome and that every opportunity has been made to engage with the child and their family.

f) The YJS will utilise flexible and responsive ways including ‘Back on Track’ meetings/panels as well as restorative approaches and partnership work to address and support engagement.

g) All Staff should evidence on ChildView the steps that they have taken to engage and support children in the context of their family and support network.

h) Staff should outline the benefits of engagement with statutory disposals to children and parents/carers including early revocation when appropriate.

# Early Revocation

* 1. An application for early revocation can be made midpoint in respect of a Youth Rehabilitation Order and Referral Orders if all the requirements of the intervention plan have been completed, along with clear evidence in a reduction of risk of reoffending and harm to others. Early revocations must be agreed with a manager prior to seeking revocation through the Court.

***Click here for process chart of early revocation***

# Court

* 1. Engagement with children and their parents and carers starts from the day they first appear at Court.
	2. The Court Officers have a responsibility to ensure that each child and their parent / carer is met outside of the Court room, and that time is taken to check that they have understood what has happened in Court. They understand what the Court outcome is and that they know how to contact the YJS. They should also be given an Induction appointment. This can be scheduled on same the day that the child has appeared in Court, or the day following with the duty worker or allocated case manager.
	3. This meeting should be recorded on Childview as ‘Interview at Court’ on Childview by the Court Officer on the day. An appointment slip should be signed by the child and parent/carer and a copy retained with the Court paperwork.
	4. The Court officer will liaise with the YJS Office in respect of children who are from other Boroughs or areas and ensure that an appointment is scheduled and that they have the address and telephone number of the local YJS.
	5. This is also an opportunity to introduce ourselves as a service and to start to explore any barriers to engagement, initially whether the child is safe to attend the YJS office and if this is not possible where they would be able to meet as an alternative. In all cases, the telephone numbers and if possible, the email address of the child and parent/carer(s) should be obtained and recorded. This also provides the child with an opportunity to ask any questions they may have.

# Induction

* 1. The process of enabling and supporting compliance commences with an appropriate induction where the child and parent/carer are introduced to the requirements of their order and the rights and responsibilities of both parties. The YJS Practitioner or Duty worker should go through the [Induction Pack](https://towerhamlets2.sharepoint.com/%3Aw%3A/s/YouthJusticeService-PoliciesandProcedures9/ETIwgHnmkQVCu3IsC9kIMigBQOO06V5Xssj-_FF6C_9Eiw?e=h5HfvK&wdLOR=c3DEAFB26-BC97-4625-8119-F6B44AEC4475) with the child and the parent/carer and ensure that the Behavioural agreement, Consent form and Safety form are completed, signed and copies given to the child and parent/carer.
	2. It is important that the expectations of their order are explained clearly in terms which are understood. Therefore, it is important that the YJS Practitioner or duty worker undertaking the induction meeting with child ensures that the child and parent/carer(s) have fully understood what has been discussed with them. It is paramount that staff ascertain whether children have specific support needs, for example requiring reminders or specific presentation of information on letters as these issues may be linked to additional needs such as speech and language issues.
	3. Where children are supported by their parents or carers, they are likely to have a better chance of completing their intervention successfully and keeping to the terms of the Court Order. It is therefore essential that appropriate engagement forms part of the induction process. Parents may themselves have additional needs and practitioners need to be mindful of this and ascertain whether parents have any support needs or require clarification.

# Supporting the child

* 1. Any issues which have been identified and recommendations made following the child’s induction need to be consistently followed through by the allocated YJS Practitioner. Where a child requires additional support such as reminders, it is essential that this understanding is shared with all professionals involved so that such support is consistent and available for other appointments which form part of the order.
	2. Staff working with YJS children and families are to be considered in the language they use to communicate in face-to-face meetings, when recording within the YJS case management system and within reports and assessments. Language is the most powerful tool we have as humans for positive or negative results and is essential when trying to positively engage children and families. To support practitioners and ensure the council have a consistent approach to how we communicate the following [***guidance***](https://towerhamlets2.sharepoint.com/sites/SupportingFamilies/Shared%20Documents/Forms/AllItems.aspx?id=%2Fsites%2FSupportingFamilies%2FShared%20Documents%2FLanguage%2FUse%20of%20language%2FPractice%20guidance%20around%20language%20DIGITAL%20Final%20Feb%202024%2Epdf&parent=%2Fsites%2FSupportingFamilies%2FShared%20Documents%2FLanguage%2FUse%20of%20language) has been developed.
	3. Many children will find that a clear structure to their appointments is helpful, such as having a specific day and time that they are required to attend. It is important that YJS Practitioners ascertain what day and time would be most likely to support engagement as well as where appointments would be best to take place. Commitments such as family contact for a Child Looked After or religious practices should be taken into account as well as the current cost of living crisis and how this will impact the families that we work with and their financial ability to engage with appointments.

Coordination of appointments with other agencies / professionals.

* 1. Children will often be required to attend appointments with a variety of professionals. YJS Practitioners need to ensure that the child has a clear understanding of which appointments are mandatory and therefore form part of the order and which are to be attended voluntarily. When a number of professionals are involved the YJS Practitioner should co-ordinate the appointments and also to take responsibility for communicating them to the child. This reduces the risk of the child receiving multiple communications or letters from different professionals, potentially confusing them.

Role of parents/carers

* 1. YJS Practitioners need to ensure that they maintain regular contact with parent(s) and carer(s) in order to monitor the child’s progress and to promote engagement with their order. Parent(s) and carer(s) should normally be sent a copy of the child’s appointment letter. In addition to regular telephone contact, home visits should be carried out on a regular, at the least monthly. Unless there are safeguarding concerns which state that it is inappropriate to visit which should have been discussed with a manager and recorded on Childview.

# Enforcement

* 1. YJS Practitioners need to ensure that children, and their parent(s)/carer(s), fully understand which appointments are mandatory, that they are required to keep as part of their order and which ones they can choose to attend voluntarily. Contacts which focus solely on welfare concerns or are positive activities should not be enforced. Conversely, contacts focussing on the child’s safety and wellbeing, risk of re-offending or risk of harm to others should generally be enforced.

Therapeutic interventions

* 1. Some therapeutic intervention, such as CAMHS intervention whilst linked to the child’s likelihood of re-offending are likely to be provided by agencies outside the YJS. In those circumstances, YJS Practitioners need to establish whether the provider is in agreement with their appointments being used as a statutory YJS appointment. Where this agreement is in place, these contacts will be regarded as equivalent to YJS contact and recorded by the case worker as such. Any contacts with staff seconded into the YJS partnership from other agencies will be considered statutory contacts. It is important to note that all therapeutic interventions with the YJS are not enforceable, this means that should I child not attend a therapeutic appointment which has been agreed as a statutory YJS appointment for that week, it is to be recorded as a “*non-statutory contact”* for that week and an additional appointment offered to the child that week. This should have been explained to the child at the start of their order. Furthermore, should the child continue to not attend therapeutic interventions, this may be an indication that they are not ready to engage with this type of support, and will require review and further preparatory work.
	2. Where this is not the case, this may be of concern as despite the use of motivational interviewing techniques and encouragement, the likelihood of the child attending when they are not required to do so as part of their order, may be slight, and this may be particularly the case with some of the most complex and / or high-risk children. YJS Practitioners should therefore explore alternatives, such as agreeing with the child that the contact will be counted towards their order, if they attend, but there will be a requirement to make up for any missed sessions by attending alternative contacts at the YJS or at another agreed location or attending the first appointment with them in support.
	3. It is important that clear lines of communications are in place with the other agencies to maintain oversight regarding the child’s engagement with services provided by other agencies and professionals.

# Missed Appointments

* 1. National Standards no longer specify timeframes for the follow up of missed appointments. However, local standards require missed appointments to be followed up on the same day. In some cases, for instance where the child is seeing someone from another agency, this may not be possible. Missed appointments should however be followed up within 48 hours.
	2. If a child has not arrived for their appointment within 15 minutes of their appointment time, they should be contacted by telephone, email or text message/whatsapp, to ascertain the reasons for non-attendance.
	3. Where the child has missed the appointment and contact could not be established, efforts should be made to speak to the parent/carer to ascertain if there is a reason for non-attendance. Where no such reason can be established, or a contact with another professional in the network cannot be evidenced, a written warning needs to be sent to the child. If there are exceptional circumstances e.g. welfare concerns, that suggest to the YJS Practitioner that issuing a warning letter would not be appropriate, a manager (normally the line manager or duty manager if they are not available, needs to be consulted and management approval sought and clearly recorded on Childview.
	4. It is important that YJS Practitioners do not approach the follow up of missed appointments as an administrative process of sending warning letters. In the light of speech and language difficulties, complex family circumstances and the additional needs of many of the children who attend the YJS it would risk further alienation of some children if such an approach is adopted.

***It is important to remember that it is possible for children to make up for missed appointments by attending an alternative appointment. This option should be considered where the child presents with an appropriate motivation and willingness to do so, and their pattern of attendance supports this approach. The opportunity to make up for appointments should always be offered, as a way of the child demonstrating responsibility for their order, thus maintaining contact and avoiding the need for a warning to be issued.***

* 1. Solely issuing a letter of warning, without other action or considerations as to SaLT or SEND needs or family circumstances would not be regarded as Tower Hamlets and the City of London YJS good practice.
	2. Whilst appointments are generally considered as missed if a child arrives over 15 minutes late for their appointment, YJS Practitioners should not respond to lateness in a rigid manner, but take the risk assessment of the child and patterns of compliance into account, including any progress made by the child, as well as be mindful of additional needs the child may have in respect of telling the time or travelling – this is especially important to consider for children with SALT needs.
	3. A pragmatic approach would be to work with the child to plan their journey and allow for delays as well as setting alerts to remind them to set off on time, such techniques would be transferable to other aspects of their life.

# Curfew Violations

* 1. Where a child is on a stand-alone YRO with Electronic Monitoring Requirement, EMS will be responsible for issuing warning letters for violations and completing the breach pack and listings. However, the YJS will be responsible for prosecuting breaches and making recommendations to the Court.
	2. In respect of all other electronically monitored requirements attached to an Order, the YJS will be responsible for both issuing warnings and instigating breach action. There are two levels of non-compliance, More Serious and Less Serious curfew violations.
	3. Where EMS has substantiated evidence that a less or more serious level violation has occurred, they will notify the YJS within three working days via secure email via an Agency Notification Report to the YJS worker asking what action is to be taken. The YJS must respond via the following email address EMSEnforcement@EMS.co.uk.cjsm.net.
	4. Guidance states that for an initial and second less serious level violation, the YJS should send a standard warning letter to the child within one working day of the incident coming to notice unless their manager uses their discretion not to. The YJS will complete and return page four of the Agency Notification Report and a copy of the warning letter within two days from the reported violation and sent this to the EMS secure email address.
	5. For a more serious level violation (whole period) or a third less serious level violation, the YJS must take breach action unless a decision is made by the manager not to do so. If no breach action is to be taken the YJS must complete page 4 of the Appendix to inform EMS of the decision.
	6. The process allows two warnings for less serious violations prior to breach action. However, where a more serious violation action occurs then breach action is to be taken immediately. All efforts should be made to discuss any breaches of curfew with the child and family, to identify any potential issues and to support engagement and compliance with this requirement.
	7. There should be a record of ChildView recorded detailing why the decision was taken not to instigate Breach action.
	8. If Breach action is agreed, then the child and parent should be informed and the Breach listed in the usual manner.

# Bail Violations

* 1. The Police are responsible for enforcement of bail conditions, and therefore any concerns held by YJS about children breaching electronically monitored bail conditions should be referred to the police in the first instance in the same way as other breaches of bail conditions are.

## Non-Engagement with Bail Support

* 1. Non-engagement with Breach of Bail Supervision and Support (BSS) and Bail Intensive Supervision and Surveillance (BISS).
	2. If a child fails to comply with BSS and BISS conditions, the YJS Practitioner should follow up by phone or a home visit within 24 hours, to determine whether the absence is acceptable. If the absence is deemed as unacceptable then a written warning must be issued.
	3. Once one written warning has been issued and there is a further instance of non-compliance then breach action should be initiated.
	4. Breach action may also be initiated in respect of one serious behaviour or instance of non-compliance.
	5. Breach proceedings are instigated by completing a [MG11](https://towerhamlets2.sharepoint.com/%3Aw%3A/s/YouthJusticeService-PoliciesandProcedures9/EeYJD_iPaRxHsE243h_lDycB46DqUuwvdnwYzuB3UNtbrg) witness statement with assistance from the YJS Police Officers. The child should be advised that breach has been instigated once the police have receipt of the Section 9 statement. Once the police are in receipt of the information, then the child should be advised to present to their nearest police station to appear in Court at the earliest opportunity.
	6. Any First Instant Warrant needs to be approved by a Manager before it can be issued. This allows for the individual circumstances of the child, and their risks, to be ascertained before this decision is made.

## Violation of Remand to Local Authority Accomodation

* 1. Non-compliance with Remand to Local Authority Accommodation (RLAA)
	2. A child who is missing from their placement is “unlawfully at large”. The child can be detained by the police and returned to their placement. Their remand status will be reviewed every four weeks by the court and the YJS Practitioner should prepare an update for the court regarding any absconding by the child.
	3. Any First Instant Warrant needs to be approved by a Manager before it can be issued. This allows for the individual circumstances of the child, and their risks, to be ascertained before this decision is made.

## Warning Letters

* 1. Practitioners need to be mindful of the language used in warning letters, ensuring that the child is able to understand fully the contents of the letter. The level of the warning should be indicated, and what the process will be if there are further missed appointments.
	2. There should be a clear indication that if the child has a valid reason for missing the appointment which has not been communicated to the YJS Practitioner that this will be accepted, if evidence is provided within 5 working days. This needs to be recorded clearly on Childview and a letter confirming this sent to the child and the parent/carer.
	3. If the child is subject to a Youth Rehabilitation Order of longer than 12 months duration then the warning letter should specify that this warning letter marks the beginning of the **6-month warning period.**
	4. In cases where the warning letter was issued and the YJS Practitioner was not able to speak with the child or parent / carer to establish the reason for non-compliance these must be discussed at the next appointment with the child.
	5. If there are any concerns with the safety and well-being of the child then an unscheduled home visit should be attempted, on an individual basis the YJS Practitioner may wish to involve another professional such as the allocated Social Worker.
	6. There should also be attempts to contact the professional network, particularly education if the child is attending school or college to ascertain if the child is not present for other services and intervention as well as with the YJS.
	7. If a child has more than two consecutive 'sufficient reasons' for missing appointments, this will require management oversight.
	8. ***Templates for enforcement and compliance can be found*** [***Here***](https://towerhamlets2.sharepoint.com/%3Af%3A/s/YouthJusticeService/EmSxD6rrMV5Im96dSB1GfooBEE6sj3IM5-jySDK00oPgag?e=QXOqHN) ***and*** [***Here***](https://towerhamlets2.sharepoint.com/%3Af%3A/s/YouthJusticeService/Ej-mYeOEQw1LkHrnDXbooZAB7zb2CBsZQMwZ6CIF9JKHsg?e=ac6I8V)

# Back on Track Meetings

* 1. Back on Track meetings should be held in respect of all statutory interventions.
	2. If a child has missed a second appointment without sufficient reason resulting in a final warning being issued a Back on Track meeting needs to be arranged. This should take place as soon as possible after the second failure to attend an appointment, but no later than 10 working days after the missed appointment, whilst taking into account the risk level of the child. The child’s appointments should be continuing as usual.
	3. A Back on Track meeting may also be called after one missed appointment in exceptional circumstances or if the child is on bail, for example in cases where there are concerns about the escalating risk in the context of disengagement from the YJS and other services or where the child has indicated that they are not willing to engage going forward.

Structure

Back on Track meetings should include the following:

* + Child;
	+ Parent (s) / carer (s);
	+ YJS Practitioner;
	+ Team Manager (line manager ideally) to chair
	+ Social Worker / Key Worker if they have one;
	+ Other agencies where appropriate
	1. If an interpreter is needed to ensure the engagement of the parent/carer, this should not be the child or family member. YJS Practitioners should request interpreting services through the Big Word services.
	2. In the case of Referral Orders a Team Manager would not be included but will follow the setup of the RO process and have Community Panel members present, all efforts should be made to have the same panel members as at the initial panel meeting for the child.
	3. The purpose of the Back on Track meeting/panel is:
* to seek to establish the reasons for non-engagement and what action has been taken to overcome the barriers to engagement for the child;
* to additionally explore ways to support the child in order to improve their level of engagement, and thus potentially prevent breach proceedings being instigated.
	1. The approach which should be taken at a Back on Track meeting/panel is a solution focussed and problem-solving approach. The YJS should be able to evidence and record that the child has been listened to and actions have been taken to overcome any barriers to engagement, prior to the instigation of any court proceedings being agreed.

Agenda

All Back on Track meetings/panels should explore the following areas:

The child’s strengths and what is going well;

* Date and type of order and requirements;
* Level of contact expected from the child;
* Progress of order to date, risk assessment, including any further offending;
* Outline of the incidents of non-engagement;
* Date of warning letters;
* Reasons for non-engagement (if given);
* Additional support required (consider child’s ability to understand letters, cost of getting to appointments, reminder text messages and phone calls, keyworker support, change of venue, change of day / time of the meetings, family support etc);
* The child’s familial support, motivation and commitment to completing the order.
	1. Where a child’s engagement with other agencies / professionals or certain aspects of their intervention is more positive, efforts should be made to explore how this can be built upon and used to reflect their engagement with other services as an alternative to direct YJS contacts. Joint sessions should be considered as well as appointments taking place in the community. The sequencing of interventions must also be utilised so that a child does not feel overwhelmed by the number of professionals and the amount of intervention which they are required to engage in, at any one time.
	2. It is important that views of parent(s)/carer(s) or lead professional for a child corporately parented by the LA, as well as other professionals are ascertained to determine how the support plan could be adjusted to facilitate engagement. Outcomes may include the addition of an extended period of compliance.
	3. Engagement reports and outcomes need to be recorded in full on ChildView (process box breach prevention panel/meeting) In most cases this will be the YJS Practitioner who will complete this, or where there were reasons suggesting that the manager would be in a better position to do so.

## Further non-engagement

* 1. Where a child has attended a Back on track meeting/panel and was provided a further opportunity to demonstrate compliance and engagement, and they subsequently miss a further appointment without sufficient explanation, breach proceedings will normally need to be instigated.
	2. Where it is felt that instigating a breach proceeding would not be appropriate, for example due to the time which has passed or significant events or changes in the child’s life, YJS Practitioners are required to consult their line manager for approval. A further Back on track meeting/panel may be arranged where appropriate, to reflect and discuss the changes in circumstances. Where a decision to ‘stay’ or suspend the breach is made this needs to be clearly recorded on the Child View record for the child by the responsible manager, as Management Oversight, explaining the reason for the decision.

## Breach Proceedings (Prosecution for Failure to Comply)

* 1. YJS Practitioners are required to list child for breach as soon as possible after the decision has been made. This should be generally in 10 working days on the scheduled TH-CL Court Day this is to allow time for the summons to be processed and for sufficient time for the summons to be served on the child.
	2. The child and parent/ carer should be informed of the decision to breach, and the letter sent will outline the reasons why. Appointments should continue to be offered to the child in line with the scaled approach, and they should be encouraged to attend as this would be considered as indicative of an intention to continue to work with the YJS.

The YJS Practitioner will email Londonsummonsesonly@justice.gov.uk

This email should have Breach Action requested Summons Required (date) in the subject line.

This email should include the following:

* MCA2 Summons
* MCA1 Information
* Additional Information
* Copy of the Court Order
* MCA 4 Warrant should also be completed in all cases and will form part of the Breach pack.

***These documents can be found in the Court Breach Folder*** [***here***](https://towerhamlets2.sharepoint.com/sites/YouthJusticeService/Shared%20Documents/Forms/AllItems.aspx?id=%2Fsites%2FYouthJusticeService%2FShared%20Documents%2FYJS%2FPractice%2FCourt%2FCourt%20documents&p=true&ga=1)

* 1. The required contents of the breach pack information are contained in the Breach Check list.
	2. There will be a Breach report prepared in respect of the child, using the Breach report template and subject Quality Assurance processes by the Line Manager two (2) working days prior to the scheduled Court appearance. It is important that Breach reports offer a balanced view, taking into account any progress which the child has made, and putting into context the child’s level of non-engagement. Long lists of missed appointments can undermine our balanced and fair approach to enforcement. It also makes gathering evidence more difficult and may undermine a successful prosecution. A single serious breach can be used as evidence, but a line manager must have agreed this and recorded the reasons why in the child’s case record. The relevant risk and safety and well-being concerned should be addressed within the report. Where the pre-sentence report for the offence is more than three months old, TH-CL practice is to always request a further PSR upon conviction. Children’s lives and circumstances change rapidly and re-sentencing for failing to engage presents a fresh opportunity to consider the child’s strengths, needs, risks and for the YJS Practitioner to reflect on their engagement approach and the next intervention plan.
	3. Where re-sentencing is being considered as the appropriate proposal it is important that the original offences are discussed in full in the report, or a copy of original PSR in respect of the index offence could be annexed.
	4. Where the child is at risk of custody, the YJS Practitioner is expected to send appropriate notification to the YJB YCT at least one working day prior to the scheduled breach hearing. The ASSET+ should also be reviewed and countersigned prior to the Breach report being produced.
	5. Where custody is a possible outcome, YJS Practitioners need to address alternative options as a part of their Breach report, including the imposition of Intensive Supervision and Surveillance (as a direct alternative to custody) and to highlight to the Court the impact that the imposition of a custodial sentence would have upon the child.
	6. YJS Practitioners should also be mindful of the fact that in cases of persistent and wilful non-compliance Intensive Supervision and Surveillance is available to the Court as a sentencing option. Therefore, any concerns about the child’s ability to cope with such a sentence will need to be presented to the court and alternative options which will also manage the risk need to be detailed in the Breach report. If the proposal is for an ISS requirement, then a timetable should also be included.
	7. The breach should be clearly recorded in the key stage processes, including the outcome of the court appearance.
	8. If the child does not surrender to the summons and the warrant is issued, please check with the YJS police that the warrant has been uploaded onto the PNC system within one (1) working day following the scheduled court appearance.
	9. In addition to the process of breach, if a child is missing who are subject to exploitation in relation to Modern Day Slavery in respect of County lines or Sexual Exploitation, then following attempts to contact the child, such as unannounced home visit and checking with the professional network, a First Instance Warrant can be applied for. This is primarily used regarding issues of Safety and Wellbeing and therefore the process of issuing warning letters and Back on Track meetings/panels does not need to be followed. However, where such processes were in place, they will be referenced in the prepared Breach report.
	10. When a First Instance warrant is required, this should be sworn either by the specific YJS Practitioner, or a member of the court team on a non TH-CL day, and they will need to be briefed and supplied with the correct information to swear the warrant.
	11. When a child is missing the Breach report should be prepared when the warrant is sworn as they could be found and brought before the Court at any time. The report should be Quality assured in the usual manner and a copy of the report stored on Child view.

## Contested Breaches

* 1. When a breach is contested, i.e. denied by the child, YJS Practitioners must ensure their availability to attend Court as a witness and identify any other witnesses and confirm their availability to attend Court.
	2. When a child pleads not guilty and a trial date is set, Counsel will need to be instructed for the breach. The YJS Practitioner should contact TH-CL Borough Council legal service department.
	3. In preparation for trial the YJS Practitioner is required to prepare a breach trial pack which includes:
* Copy of the breach report
* List of witnesses and what they will say in evidence including statement, if possible,
* Details of the defence’s case if known,
* Copies of enforcement letters,
* Evidence of supporting engagement,
* Correspondence in relation to the breach,
* Copy of the current YJ CMS contacts and appointments log,
* Copies of CPS paperwork
	1. It would also be helpful to include the PSR in relation to the current order, and any other reports which may affect a child, such as reports from SaLT or clinical services.

# Court Responsibility for the Listing Process

## Detention and Training Orders

* 1. All DTO breaches should be returned to the Youth Court regardless of in which court the order was made.

## Breaches to be listed at the Crown Court

* 1. Youth Rehabilitation Orders (YRO) which have been made by the Crown Court must be returned straight back to the Crown Court. Unless it is made in the Crown Court on appeal from the magistrate’s court in the event of breach; or unless the judge specifically gives a direction that failures to comply can be dealt with in Youth Court/Magistrates Court.
	2. If directions have been made for the case to be dealt with in the Youth Court then follow the same process for listing cases at Youth Court.
	3. As the YJS have no “rights of audience” in the Crown Court, our prosecutions must be presented by a barrister who are briefed by the respective Council’s Corporate Legal Services. All Crown Court prosecutions and applications must be directed through TH-LC Council Legal Services, who will appoint a barrister on behalf the YJS. The Head or Service or Service Manager will need to be alerted as legal costs will need to be met from the YJS budget. Also, an alert to the Business Support Manager will be needed to ensure the necessary purchase order for services are commenced and completed correctly.

## Breach Reports listed at the Crown Court

* 1. Breach reports should be completed and submitted a minimum of 2 days prior to the Court hearing.
	2. The YJS Practitioner should ensure that they provide.
* A breach checklist
* Copy of the Court listings,
* Copy of the order/licence.
* Enforcement letters.
* Curfew violations if applicable.
* Up to date PNC and copy of CPS paperwork in the likelihood that the court may
* wish to revoke and resentence the child.
* Completed Risk assessment Form for execution of warrant
	1. In accordance with good practice the YJS Practitioner should attend the Court hearing.

## Breach of s90-92 and s226 and s228 Licences

* 1. Where a child is subject to a licence other than a DTO the process for breach is different- while the steps remain as outlined above in terms of trying to engage the child and support their engagement, they are not returned before the Court for breach, instead they are recalled directly back into custody. ***Please refer to attached guidance*** [***here***](https://assets.publishing.service.gov.uk/media/64f9b3eafdc5d1000dfce7aa/recall-release-pf.pdf)

# Breach Process Flow Chart